

ALASKA LEGISLATURE COMMITTEE FILES 1989-1990

8672

6211 SENATE COMMUNITY & REGIONAL AFFAIRS

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95

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE _____
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE _____

1/9/89

Mr. President:

C&RA Committee considered SB 95

authorizing the combining of a sales and use tax proposition with incorporation of a borough; and providing for an effective date.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Do Pass
Chairman signature and recommendation

Committee backup attached

**COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
JANUARY 24, 1989**

**SB 95: AN ACT AUTHORIZING THE COMBINING OF A SALES AND USE TAX
PROPOSITION WITH INCORPORATION OF A BOROUGH AND PROVIDING FOR
AN EFFECTIVE DATE.
SPONSOR: RULES/GOV
FISCAL: NONE**

**THE NEXT BILL WE WILL HEAR IS SENATE BILL AN ACT
AUTHORIZING THE COMBINING OF A SALES AND USE TAX
PROPOSITION WITH INCORPORATION OF A BOROUGH AND
PROVIDING FOR AN EFFECTIVE DATE.**

**THIS BILL WOULD ALLOW FOR A SALES AND USE TAX
PROPOSITION TO BE INCLUDED ON THE BALLOT FOR THE
INCORPORATION OF A BOROUGH. CURRENT STATUTES OMIT THIS
PROVISION ALTHOUGH IT IS ALLOWED FOR SECOND CLASS
CITIES. THE BILL IS BACKDATED TO JANUARY 1, 1987 BECAUSE
OF A VOTE THAT TOOK PLACE FOR THE FORMATION OF THE
ALEUTIANS EAST BOROUGH THAT INCLUDED A SALES AND USE
TAX PROPOSITION.**

**THERE IS A ZERO FISCAL NOTE IN YOUR PACKET FROM THE
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.**

JIM PLASMAN IS HERE TO SPEAK FURTHER.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the combining of a sales and use tax proposition with the incorporation of a borough.

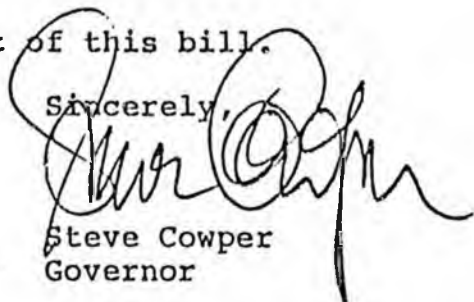
Current law does not provide express authority for a petition and an election ballot for incorporation of a borough to include, at the same time, a sales and use tax proposition. AS 29 provides only for the combining of a sales and use tax proposition with incorporation of a second class city. See AS 29.45.710. The purpose of this bill is to ensure the financial viability of a new borough at the time of incorporation, and to simplify incorporation procedures similar to those governing the incorporation of second class cities. The Local Boundary Commission anticipates that several new boroughs might seek incorporation over the next few years. Many of the proposed boroughs might not be levying property taxes due to the fact that a substantial portion of the property to be included in boroughs is exempt from property taxes (e.g., undeveloped ANCSA land and federal and state land). Therefore, sales and use taxes might constitute the sole tax base for a number of the boroughs to be incorporated.

Section 1 of the bill adds a new section, AS 29.45.680, to authorize a petition for incorporation of a borough (of any class) to request that a sales and use tax proposition be placed on the same ballot with the incorporation question. The petition must state the proposed tax rate. The petition may request that incorporation of the borough be dependent on the passage of the tax proposition. This section does not require a tax proposition to be on the same ballot as the incorporation question. Proposed AS 29.45.680 is identical in procedure and effect to AS 29.45.710 (combining sales and use tax propositions with incorporation of second class cities).

Section 2 of the bill proposes a retroactive date of January 1, 1987 for AS 29.45.680. This is necessitated by the fact that the recently incorporated Aleutians East Borough, a second class borough, included a sales and use tax proposition with the incorporation question in its incorporation petition and on the election ballot in 1987. While the incorporation of the borough was not dependent on the passage of the sales tax proposition (which passed), the borough's sales tax is under legal challenge, and the issue is part of the appeal in Lake and Peninsula School District, et al. v. Alaska Local Boundary Commission, Case Nos. 3AN 87-8005 and 3AN 87-9217 (Consolidated). A retroactive date of January 1, 1987 will render the question moot as to the Aleutians East Borough, and for other proposed boroughs, presently in the incorporation process, that desire to include a sales and use tax proposition at the time of the incorporation election.

I strongly urge your support of this bill.

Sincerely,



Steve Cowper
Governor

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 95

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the combining of a sales and use
7 tax proposition with incorporation of a borough; and
8 providing for an effective date."

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

10 * Section 1. AS 29.45 is amended by adding a new section to article 4
11 to read:

12 Sec. 29.45.680. COMBINING SALES AND USE TAX WITH INCORPORATION
13 OF A BOROUGH. A petition for incorporation of a borough may request
14 that a sales and use tax proposition be placed on the same ballot.
15 The petition must state the proposed tax rate. The petition may
16 request that incorporation be dependent on the passage of the tax
17 proposition; if so, the incorporation proposition fails if the tax
18 proposition fails.

19 * Sec. 2. Section 1 of this Act is retroactive to January 1, 1987.

20 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Article 5. City Sales and Use Taxes.

Section
700. Power of levy

Section
710. Combining sales and use tax with
incorporation of a second class city

Effective date of article. — Section
90, ch. 74, SLA 1985 provides: "This Act
takes effect January 1, 1986."

Sec. 29.45.700. Power of levy. (a) A city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs, except that the assembly may by ordinance authorize a city to levy and collect sales and use taxes on other sources.

(b) A city in a borough that does not levy and collect sales and use taxes for areawide borough functions may levy and collect sales and use taxes in the manner provided for boroughs.

(c) A city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs. (§ 12 ch 74 SLA 1985)

Sec. 29.45.710. Combining sales and use tax with incorporation of a second class city. A petition for incorporation of a second class city may request that a sales and use tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the tax proposition. If so, the incorporation proposition fails if the tax fails. (§ 12 ch 74 SLA 1985)

Chapter 46. Special Assessments.

Section
10. Assessment and proposal
20. Procedure
30. Creation of district
40. Record owner
50. Objections and revision
60. Assessment roll
70. Hearing and settlement

Section
80. Payment
90. Exemption
100. Reassessment
110. Allowable costs
120. Objection and appeal
130. Interim financing
140. Special assessment bonds

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, a lien authorized under this section has priority over other liens except those for property taxes and special assessments. (§ 12 ch 74 SLA 1985)

Sec. 29.45.660. Notice of sales and use tax. (a) If the borough levies and collects only a sales tax and use tax, the assembly shall provide a notice substantially in the form set out in AS 29.45.020. In providing notice under this subsection, the assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in AS 29.45.020. Notice shall be provided

(1) by publishing in a newspaper of general circulation in the borough a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the borough's budget; or

(2) if there is no newspaper of general circulation in the borough, by posting a copy of the notice for at least 20 days in at least two public places in the borough, with posting to occur not later than 45 days after the final adoption of the borough's budget.

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.60.010 — 29.60.080 and state aid for miscellaneous municipal services under AS 29.60.100 — 29.60.180. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985)

Sec. 29.45.670. Referendum, adoption, and modification. A new sales and use tax or an increase in the rate of levy of a sales tax approved by ordinance does not take effect until ratified by a majority of the voters at an election. (§ 12 ch 74 SLA 1985)

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Community & Regional Affairs
 Title: "An Act authorizing the combining of BRU:
a sales and use tax with incorp. of Borough
 Sponsor: Rules Committee Components: _____
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *Ann Plouffe* Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 12/2/88
 Approved by Commissioner: *Donna [Signature]* Date: 20 Dec 88
 Agency: Community & Regional Affairs

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

No.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 95
PUBLISH DATE: 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Authorizing combining of
sales and use tax proposition
Sponsor: Rules Committee
Requestor: Request of the Governor

Agency Affected: Office of the Governor
BRU: Division of Elections

Components: I - Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth
Division: Division of Elections

Phone: 465-4611
Date: 12/20/88

Approved by Commissioner: *Nanda Stout*
Agency: Divison of Electons, Office of the Lt. Governor

Date: 12/20/88

Distribution (by preparer):

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

STATE OF ALASKA LOCAL BOUNDARY COMMISSION

949 EAST 36TH AVENUE, SUITE 405, ANCHORAGE, ALASKA 99508
TELEPHONE 561-8586

C.B. BETTISWORTH, CHAIRPERSON
JO ANDERSON, 1ST JUDICIAL DISTRICT
BEN NAGEAK, 2ND JUDICIAL DISTRICT
LAMAR COTTEN, 3RD JUDICIAL DISTRICT
SHELLEY DUGAN, VICE-CHAIRPERSON, 4TH JUDICIAL DISTRICT

STATEMENT ON BOROUGH GOVERNMENT IN ALASKA

The Local Boundary Commission (LBC) was established under Alaska's Constitution to deal with certain critical local government matters. Its constitutional and statutory duties include making studies of local government boundary problems and judging proposals for borough incorporation and annexation. The LBC consists of five members appointed by the Governor. It is independent of all State agencies and other boards.

Due to a substantial increase in interest concerning borough government, conflicts over regional jurisdiction have begun to surface in several areas of the state (e.g. annexation by existing boroughs vs. incorporation of new boroughs). The LBC feels that dealing with such matters on a piecemeal basis is neither efficient nor effective. Therefore, the LBC has developed this statement in an effort to generate discussion among citizens of the state, policy makers and lawmakers concerning future regional service delivery in Alaska. This statement was formally adopted by the LBC on December 2, 1988.

INTRODUCTION

The structure for the delivery of regional services in Alaska is in need of improvement. It can be argued that the evolution of regional government over the past thirty years appears to have fallen short of the intent of the State Constitution. The present system for the delivery of regional services is inequitable and, in some respects, inefficient. While there is a strong need to change the system in order to improve the delivery of local government services to all Alaskans, substantial barriers stand in the way.

CONSTITUTIONAL INTENT FOR THE FORMATION OF BOROUGHS¹

The State Constitution provides the framework for borough governments. Article X, Section 3 of the Constitution provides that "The entire state shall be

divided into boroughs, organized or unorganized." Senator Vic Fischer, a member of the Committee on Local Government; at the Constitutional Convention, wrote that the initial principles set forth by the Committee included the guideline that "provision should be made for subdividing all Alaska into local units (boroughs) based on economic, geographic, social, and political factors; initially not all need be organized" (emphasis added).²

It was clearly the position of the Local Government Committee that "although voluntary incorporation was preferable, organized boroughs should be created without approval in the area if considered necessary by the state." Further, the Committee believed that "the state may want to mandate incorporation if an area is deemed to have reached a position where 'it should take on the burden of its own government'."³

INTENT VS. IMPLEMENTATION

During the first four years of statehood, only one borough had formed. The area encompassed by that borough was a mere 873 of Alaska's 586,400 square miles. By 1963, the need for the creation of boroughs in other areas of the state became so apparent that the Legislature was willing to adopt "one of the most controversial statutes ever passed by an Alaskan legislature" — the Mandatory Borough Act.⁴ This act required the formation of boroughs in the regions encompassing Ketchikan, Juneau, Sitka, Kodiak, the Kenai Peninsula, Anchorage, the Matanuska and Susitna Valleys, and Fairbanks.

Presumably, boroughs were mandated for those regions because, in the words of the Local Government Committee, they were "considered necessary by the state" and each area was "deemed to have reached a position where it should take on the burden of its own government."

Following the Mandatory Borough Act, only four more boroughs were formed. Today, more than 30 years after Alaskans ratified the State Constitution, only one-third of the state lies within boroughs.

THE PRESENT SYSTEM OF GOVERNMENT IS INEQUITABLE

Flaws in the present system become apparent when an examination is made of who bears the burden of providing municipal services. Boroughs are obligated by law to provide certain services, including education. Education is the largest expenditure of virtually every borough. The budgets of some boroughs dedicate as much as 90% or more of their total revenues for education.

Residents of municipal school districts will contribute more than \$125 million statewide to support the operation of their schools during this year.⁵ Substantial additional local funds will be spent on debt service for capital improvements to educational facilities in municipal school districts.

However, those who live outside municipal school districts pay no taxes in support of school operations or capital construction. As a consequence, the State has to provide substantially higher financial aid to the non-municipal school districts. In fact, 25% of the total State aid for operation of schools is dedicated to non-municipal school districts. The student population of these districts equals 12.7% of the total student population in the state.⁶

Ironically, one of the principal factors leading to the 1963 Mandatory Borough Act was the desire to "provide for tax equalization." Representative John L. Rader, the author of the Act, noted that, "if tax equalization was to be meaningful, it could not be piecemeal. Mandatory incorporation of boroughs would be necessary in all areas which could feasibly be included within a borough and which did not incorporate on local initiative" (emphasis added).

While education funding epitomizes the inequities in the current structure, it alone is not the only disparity. Similar concerns can be expressed over public safety, maintenance of transportation facilities, public planning and other services. There are a number of regions in Alaska where no taxes are levied in support of public services.

THE DISTRIBUTION OF RESOURCES IS INEQUITABLE

A recent study by the Department of Community and Regional Affairs noted vast inequities in the resources available to support existing and potential boroughs in the state. Nowhere is this more evident than in the area of property available for taxation. On the prosperous end of the spectrum, one borough in Alaska enjoys a property tax base equal to \$11,024,197 per student. The tax base of the borough on the other end of the spectrum is less than 2% of that figure (\$143,583 per student).

Like boroughs, some unincorporated regions of the state have substantial resources and some have few. For example, one unincorporated region has a potential tax base amounting to \$2,654,954 per student.⁸ A number of other unincorporated regions of the state have so little in the way of resources, that there is virtually no potential that any borough could be formed *under the present structure*. However, property values are not the only measure of a region's ability to support a borough. A number of regions may have limited property values but contain substantial resources (e.g. fish and timber) which could serve as a means to support a borough. The disparities in resource distribution are a major impediment to the formation of boroughs in several regions throughout Alaska.

STATE FINANCIAL AID PROGRAMS NEED MODIFICATION

Some of the State's most important municipal financial aid programs (e.g. school foundation formula, municipal assistance, state revenue sharing and state-shared fisheries taxes) have traits which warrant examination.

The inequity of the school foundation formula with respect to unincorporated regions vs. municipal school districts was discussed earlier. However, there are other significant inequities in that program. For example, municipal school districts are required to contribute to their schools, the lesser of: 1) the equivalent of a 4 mill property tax or 2) 35% of a level of "basic need" calculated by the State. Thirty-one of the state's thirty-three municipal school districts fall under the requirement to contribute the 4 mill equivalent. However, the other two fall under the optional provision.⁹ Both of these municipalities enjoy relatively high

property values. In one case, the law requires that the borough contribute a millage rate equivalent of only 0.33 mills in support of education. *This is only one-twelfth of the amount required for the 31 other municipal school districts.* Elimination of this inequity would save the State in excess of \$10 million annually.¹⁰

Inequities are found in programs other than those relating to education. The Municipal Assistance Program has elements which are not only inequitable, but extremely arbitrary. Under that program, a borough formed after June, 1977 with a population outside of cities ranging from 2,207 to 4,097 would receive vastly greater aid over what it would receive if its population were either higher or lower by even one person. Thus, a new borough with a population of 2,207 would receive nearly \$1.4 million in annual program funds while a borough with a population of 2,206 would receive less than \$200,000 in annual payments.

Policy concerns abound with respect to factors used in the State Revenue Sharing Program (e.g. population and local tax effort determinations). Concerns over perceived inequities in this program have led to court challenges in the past.

The structure of the State-shared fisheries tax program actually serves as a substantial disincentive to the formation of boroughs in certain areas of the state. Under the present law, some cities outside of boroughs would lose several hundreds of thousands of dollars in annual program payments if their regions incorporated.

SOME BOROUGH BOUNDARIES ARE NOT REASONABLE

Some of today's boroughs have boundaries which present unique problems for efficient delivery of regional services. An interesting example of this is the Haines Borough. Klukwan, which is located well within the borders of the borough, exists as a "jurisdictional hole" in the borough. Educational services in Klukwan are not provided by the borough, but by the State operated Chatham Regional Educational Attendance Area (REAA). The seat of the school district is located in Angoon, a community approximately 170 air miles distant. It is apparent that a more reasonable approach to serving Klukwan's education needs would likely be through the borough surrounding it.

It should also be noted that the boundaries of four of the eight boroughs formed pursuant to the mandatory

Borough Act were not originally set according to standards used today. Rather, those boroughs had their boundaries set along State election district lines. The LBC substantially modified the boundaries of one of those boroughs upon petition shortly after incorporation. However, the boundaries of the remaining three boroughs are substantially unchanged.¹¹ Their borders would not necessarily meet today's standards for the formation of boroughs. Boundaries of other boroughs in the state have not necessarily kept pace with development within their regions.

CURRENT STRUCTURE IS INEFFICIENT

The present configuration of school districts surrounded by other school districts is one example of the inefficiencies of the current structure. Regardless of the size of each district (which can be either an REAA, a first class/home rule city in the unorganized borough, or a borough) each maintains independent administrative structures. Establishing boroughs throughout the state would consolidate many of the smaller school districts and produce millions of dollars in savings throughout the state. The most dramatic example of this can be found in Southeast Alaska. If a borough were formed along the lines of the Southeast Island REAA (including Mellakata), eight separate school districts would be consolidated into one. It is projected that savings from reduced administrative costs from this one consideration alone would total \$1,400,000.¹²

BARRIERS TO CHANGE

Unless there are overwhelming advantages to entice residents of a region to form a borough, it seems clear that if most Alaskans were given a choice, they would prefer to remain outside any regional government. Before the mandatory creation of their borough, residents of Anchorage rejected a proposal to incorporate by a margin of more than 3 to 1. Residents of Fairbanks also rejected a voluntary borough by a margin of nearly 3 to 2.¹³ It is even more telling that today nearly 70% of borough residents live in boroughs which were formed under the Mandatory Borough Act.

CONCLUSION AND RECOMMENDATIONS

The LBC has formed the following conclusions:

- * Because of the disparity of resources and problems with current State aid programs, a comprehen-

sive evaluation of formulas for State aid to municipalities and related matters is warranted.

- * It is likely that there are unincorporated regions of the state which are presently able to support borough government. A restructuring of funding programs could likely extend financial viability for borough formation to all regions of the state.
- * The concept of home rule boroughs seems to offer the greatest opportunity for residents of a region to tailor the form of government to best meet their needs. Under home rule, residents of each new borough would adopt a charter (constitution) establishing the powers and duties of the borough. State law requires only that a home rule borough provide areawide education and planning (as well as tax assessment and collection, if necessary).
- * Few regions of the state are likely to seek formation of boroughs through the local initiative process.
- * There is a need to re-examine existing borough boundaries.

Therefore, the LBC recommends that the legislature carefully consider the circumstances discussed in this statement and examine alternative means to deal with the issues raised. Although there may be several others, the following alternatives would seem appropriate for consideration: 1) identifying and eliminating disincentives for the formation of boroughs, 2) revising State laws and programs to provide greater equity in the distribution of financial aid to municipalities, 3) providing for the incorporation of boroughs only in those areas which are presently financially viable and which otherwise meet the standards for borough formation and 4) providing for the formation of boroughs in all parts of the state, coupled with a mechanism to ensure that all boroughs created in this fashion are financially viable.

These recommendations of the LBC have not been made lightly. It is recognized that any proposal to change the status quo is certain to generate intense opposition. Further, it is recognized that the issues and problems identified in this statement will not be resolved overnight and will require the commitment of substantial resources. Nonetheless, this statement is issued as a good faith attempt to carry out the constitutional and statutory duties of the LBC and to seek improvements in the delivery of regional services throughout the state.

While this statement has focused largely on problems concerning the current structure, readers are encouraged to consider the positive aspects of the issue. The creation of boroughs throughout the state would provide residents with a meaningful responsibility and interest in the development of each region. Boroughs offer effective tools to deal with a number of the social problems affecting many parts of Alaska (e.g. alcohol control and mental health).

Further, by improving economies of scale, a borough may be able to offer vast improvements in the delivery of services within a region. Improvements to the structure of service delivery will become even more critical as State funds available for public services continue to shrink.

FOOTNOTES

¹ As used in this statement, the term "borough" means organized boroughs and unified municipalities.

² Victor Fischer, Alaska's Constitutional Convention (Fairbanks: University of Alaska Press, 1975) p. 119.

³ Ibid, p. 120.

⁴ Ronald C. Cease and Jerome R. Saroff, The Metropolitan Experiment in Alaska - A study of Borough Government (New York: Frederick A. Praeger, Publisher, 1968) p. 32.

⁵ Department of Education, Alaska Public School Foundation Funding Program (March 21, 1988), p. 1.

⁶ Ibid, pp. 1 & 3 (proposed FY 89 State aid to REAA schools is \$110,224,629 of the total of \$442,643,697); (projected FY 89 average daily membership for REAA schools is 12,826.55 while projected average daily membership for total schools is 100,904.05).

⁷ Cease and Saroff, p. 94 (see also pp. 87-89, 93, 117).

⁸ Department of Community and Regional Affairs, Regional Government Study (Anchorage; January, 1988) p. 28. See also, pp. 4 - 7 for a discussion of disparities in the distribution of other resources within boroughs and unincorporated regions.

⁹ Technically, a third municipal school district falls under the 35% rule, however, the difference between its required contribution and the 4 mill equivalent is a mere \$3,011. In fact, its required contribution is the equivalent of a 3.999228 mill tax. Thus, in effect, it is paying a 4 mill equivalent.

¹⁰ By requiring each municipal school district to contribute the lesser of: 1) a 4 mill equivalent or 2) "basic need" less federal aid (deductible PL-874), a savings of \$10,234,157 would result in the current year. Such a requirement would still have the districts with large tax bases paying far less than a 4 mill equivalent (0.95 mills in one case and 2.42 mills in the other case). It is believed that this change in the formula could be made without violating federal equalization requirements relating to local support of schools.

¹¹ The boundaries of the Fairbanks North Star Borough originally included some 23,110 square miles. Two days after the borough was incorporated under the Mandatory Borough Act, the LBC approved the detachment of some 17,082 square miles to the south and the annexation of some 1,333 square miles to the west. The boundaries of the Kenai, Anchorage and Matanuska-Susitna boroughs remain largely unchanged from those established 25 years ago

¹² See Table C.4 of A New Mandatory Borough Act: Local Education Costs and Potential Revenues of Newly Created Boroughs by House Research Agency of the Alaska State Legislature, February, 1988.

¹³ Cease and Saroff, p. 30.

(Page 6 is a map of Alaska showing which regions of the State are incorporated and which are not.)



Unified Home Rule Municipalities

1. Municipality of Anchorage
2. City and Borough of Juneau
3. City and Borough of Sitka

Home Rule Boroughs

4. North Slope Borough
5. Northwest Arctic Borough

Second Class Boroughs

6. Aleutians East Borough
7. Bristol Bay Borough
8. Fairbanks North Star Borough
9. Kenai Peninsula Borough
10. Ketchikan Gateway Borough
11. Kodiak Island Borough
12. Matanuska-Susitna Borough

Third Class Boroughs

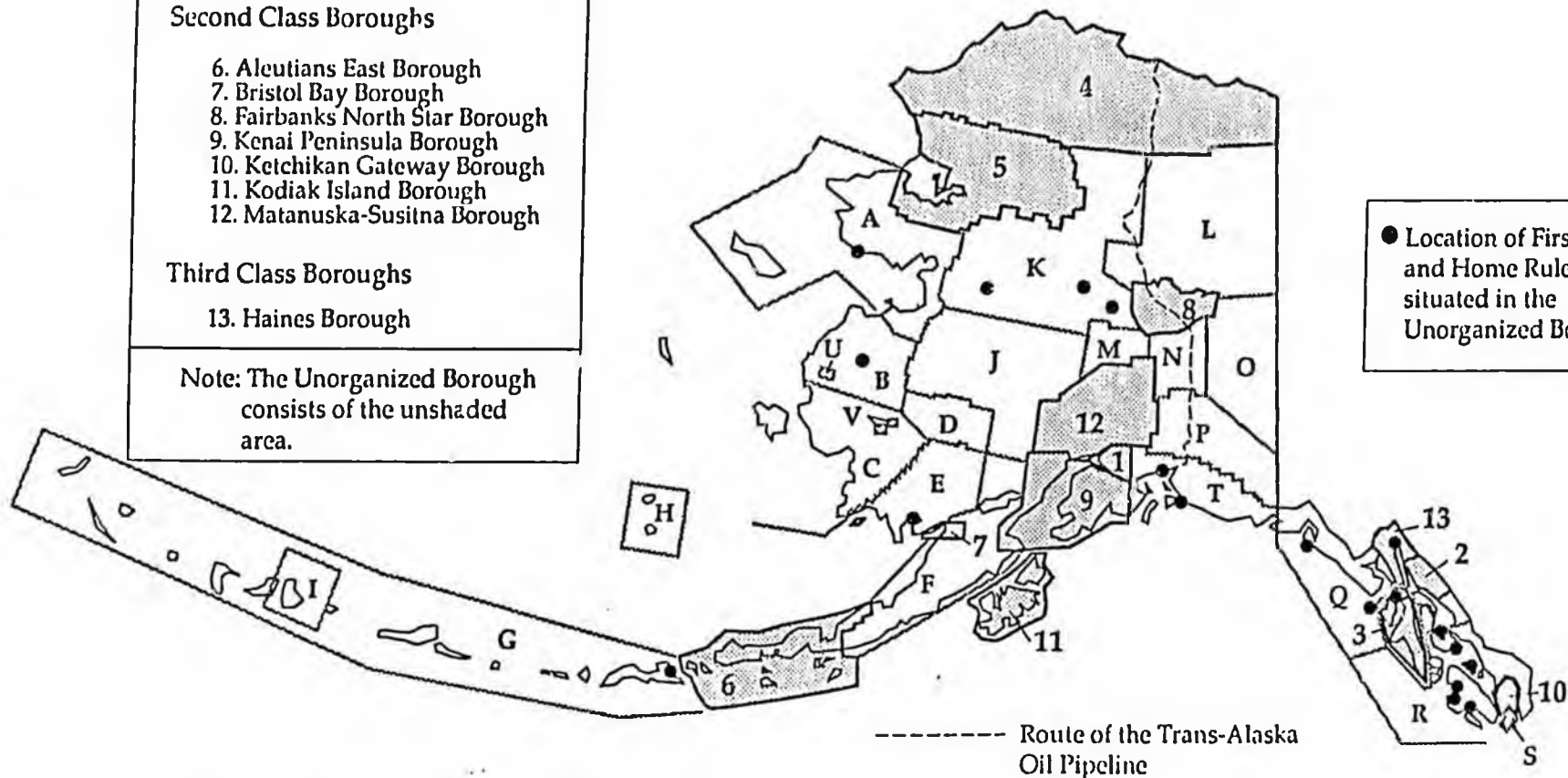
13. Haines Borough

Note: The Unorganized Borough consists of the unshaded area.

Regional Educational Attendance Areas

- | | |
|---------------------|-------------------------------|
| A. Bering Straits | L. Yukon Flats |
| B. Lower Yukon | M. Railbelt |
| C. Lower Kuskokwim | N. Delta/Greely |
| D. Kuspuk | O. Alaska Gateway |
| E. Southwest Region | P. Copper River |
| F. Lake & Peninsula | Q. Chatham |
| G. Aleutian Region | R. Southeast Island |
| H. Pribilof Islands | S. Annette Island |
| I. Adak Region | T. Chugach |
| J. Iditarod Area | U. Kashunamiut (not to scale) |
| K. Yukon - Koyukuk | V. Yupiit (not to scale) |

● Location of First Class and Home Rule Cities situated in the Unorganized Borough



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

THE LAKE AND PENINSULA SCHOOL DIS-)
TRICT; BAY VIEW, INCORPORATED;)
BRISTOL BAY NATIVE CORPORATION,)

Appellants,)

vs.)

ALASKA LOCAL BOUNDARY COMMISSION,)
ALEUTIANS EAST BOROUGH, CITY OF)
KING COVE, CITY OF SAND POINT,)
CITY OF AKUTAN, CITY OF COLD BAY,)

Appellees.)

ALASKA PENINSULA CORPORATION,)

Appellant,)

vs.)

ALASKA LOCAL BOUNDARY COMMISSION,)

Appellee.)

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JAN 13 1988

No. 3AN-87-8065 CIV

No. 3AN-87-9217 CIV
(Consolidated)

Appeal from the Decision of the Local Boundary Commission
Regarding the Petition for Incorporation of the
Aleutians East Borough

BRIEF OF APPELLEE ALASKA LOCAL BOUNDARY COMMISSION

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: MARJORIE L. ODLAND
ASSISTANT ATTORNEY GENERAL
Department of Law
P.O. Box K - State Capitol
Juneau, AK 99811
Telephone: 907-465-3600
Attorneys for Appellee LBC

Filed April 1, 1988 in the Super-
ior Court of the State of Alaska

DAVID HAAS, Clerk

By: _____

Deputy Clerk

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

THE LAKE AND PENINSULA SCHOOL DISTRICT; BAY VIEW, INCORPORATED; BRISTOL BAY NATIVE CORPORATION,

Appellants,

vs.

ALASKA LOCAL BOUNDARY COMMISSION, ALEUTIANS EAST BOROUGH, CITY OF KING COVE, CITY OF SAND POINT, CITY OF AKUTAN, CITY OF COLD BAY,

Appellees.

RECEIVED

JAN 13 1988

OFFICE OF THE CLERK OF THE SUPERIOR COURT
AND JUDICIAL DISTRICT CLERKS

No. 3AN-87-8005 CIV

ALASKA PENINSULA CORPORATION,

Appellant,

vs.

ALASKA LOCAL BOUNDARY COMMISSION,

Appellee.

No. 3AN-87-9217 CIV
(Consolidated)

Appeal from the Decision of the Local Boundary Commission
Regarding the Petition for Incorporation of the
Aleutians East Borough

BRIEF OF APPELLEE ALASKA LOCAL BOUNDARY COMMISSION

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: MARJORIE L. ODLAND
ASSISTANT ATTORNEY GENERAL
Department of Law
P.O. Box K - State Capitol
Juneau, AK 99811
Telephone: 907-465-3600
Attorneys for Appellee LBC

Filed April 1, 1988 in the Superior Court of the State of Alaska

DAVID HAAS, Clerk

By:

Deputy Clerk

another borough in the Bristol Bay region, they will have an opportunity to seek a readjustment of the disputed eastern boundary. The same degree of objectivity and consideration will be given to their petition as was given to that submitted by AFB.

VI. ENACTMENT OF THE BOROUGH SALES TAX WAS PROPER

Appellant LPSD asserts that the LBC erred when it authorized an incorporation election that also contained a proposition by which the voters could authorize the levy of a sales and use tax. This assignment of error does not appear to bear any relation to the validity of the LBC's decision concerning the incorporation of the borough. At first, the LBC desired to present a ballot to the voters that combined the incorporation question and the referendum on the levy of a sales and use tax into a single ballot proposition. Under that approach, an affirmative vote on the incorporation question also constituted an affirmative vote on the levy of a sales or use tax.

The LBC, after receiving the advice of the attorney general, severed the incorporation question from the tax levy proposition. The voters were free to approve the incorporation proposition and to express a separate opinion on the tax levy proposition. The LBC desired to promote two important policies by providing for the tax levy referendum. The LBC wanted to simplify the procedures necessary for the new borough to adopt an ordinance for the generation of local revenues. It was also desirable to save the new borough the cost and the delay associated

with calling and holding a special election after incorporation on the tax levy proposition. The latter motivation was especially important because there was a generally acknowledged shortfall of state revenues that threatened the ability of the state to fully support local governments.

Under the procedure authorized by the LBC, the voters would express their will concerning the authority of the borough to levy a sales tax before the tax ordinance was adopted. In effect, the assembly was given prior authorization rather than post-adoption approval. The LBC believed that "it would exalt form over substance" to require post-adoption approval. This makes a lot of sense in the context of borough formation when none of the machinery of local government is in place. A similar procedure is authorized for the formation of second class cities. AS 29.45.710. Section 710 authorizes an incorporation election for a second class city that combines the incorporation question with a tax levy ratification. In that case, a "yes" vote on the question of incorporation is also an affirmative vote for the imposition of a sales or use tax.

The procedure adopted by the LBC is similar to the assumption of powers procedure authorized by law for a newly incorporated borough. AS 29.05.110(b) provides

Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each non-areawide power to be exercised is placed separately on the ballot.

Appellants must agree that the incorporation petition included notice that the new borough was intended to have the power to levy a sales and use tax at a specific rate. However, they argue that the ratification cannot be effective unless the ordinance levying the tax is adopted before the ratification vote.

A careful reading of AS 29.45.670 does not disclose a requirement that a new sales tax for a newly incorporated borough may only be ratified after the levy is authorized by ordinance. Section 670 provides, "A new sales and use tax or an increase in the rate of levy of a sales tax approved by ordinance does not take effect until ratified by a majority of the voters at an election." Section 670 can be interpreted to permit sufficient latitude for prior authorization of a new sales tax proposed for levy by a new general law borough. There is no dispute that a sales tax may only be levied by ordinance. AS 29.25.010(a)(3). However, the words "approved by ordinance" can be read to modify only the phrase "increase in the rate of levy of a sales tax...." This supports the interpretation accepted by the LBC that a new sales and use tax can take effect if it is authorized (ratified) and subsequently levied by an ordinance within the scope of the prior authorization.

Section 670 uses the word "ratify." The term "ratify" means to approve and sanction, to authorize, to confirm, to make valid, and may apply to past events as well as to present. Corbin Supply Co. v. Loftis, 178 S.E. 185 (Ga. 1934). To be effective, a ratification must be made with an intent to be bound by

the acts of, in this case, the borough assembly. Cf. Bruton v. Automatic Welding & Supply Corp., 513 P.2d 22, 1126 (Alaska 1973). All of the material facts concerning the extent of the proposed sales or use tax were known by the voters. The type of tax, the activity upon which the tax is to be levied, and the rate of the tax were set out in the ballot proposal. There can be little doubt that the voters intended to authorize the levy of a sales or use tax.

Other statutes in pari materia with section 670 support a construction that permits prior authorization of tax levy ordinances. See AS 29.45.600; 29.45.710. Sections 600 and 710 permit merging sales and property tax propositions with incorporation propositions. These sections apply to the incorporation of a second class city. Here, the borough is classified as second class. A second class city and a second class borough are considered general law municipalities, that is, they may exercise only those powers conferred by law. Nothing in the standards for incorporation appear to require a stricter interpretation of the tax levy ratification procedures for a second class borough. Sections 600 and 710 provide evidence that the legislature considered a ratification of a tax levy to be the equivalent of a prior authorization. Further, appellants can point to no express limitation on the power of the LBC to direct that the incorporation question for a second class borough appear on the same ballot as a tax levy proposition.

Putting aside the question of whether prior authoriza-

tion is appropriate, the issue before the court is whether the borough was properly incorporated. As mentioned earlier, the incorporation question was separate from the tax proposition. Appellants make no argument that supports a finding that the composition of the ballot materially affected the outcome of the incorporation election. Nor could they. Clearly, a voter could have voted "yes" on incorporation while voting "no" on the sales tax. The voters' decisions on the questions presented were entirely voluntary. If the prior authorization procedure is defective, the remedy available to the borough is simple. It must hold a special election after the tax ordinance is adopted. The borough is not forever foreclosed from levying a sales tax. It would take more time and money to do this but certainly would not permanently affect the borough's ability to generate enough local revenue to finance the cost of local government.

VII. APPELLANTS WERE NOT DEPRIVED OF CONSTITUTIONAL RIGHT TO NOTICE AND HEARING

Bay View complains that it was denied its right to due process as to a meaningful opportunity to participate before the LBC made its decision to accept the petition. Bay View Br. at 44. Furthermore, Bay View claims that there was no notice calculated to inform it (or any other property owner adjacent to the boundaries) of the petitioner's intent to annex Bay View's land in the proposed borough and that this denial of due process resulted in an unconstitutional "taking" of its land.

A review of the record on appeal in this case discloses

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

THE LAKE AND PENINSULA SCHOOL)
DISTRICT, ALASKA PENINSULA)
CORPORATION, BAY VIEW,)
INCORPORATED, BRISTOL BAY)
NATIVE CORPORATION,)
)
Appellants,)
)
vs.)
)
ALASKA LOCAL BOUNDARY COMMISSION,)
)
Appellee.)
)

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Nos. 3AN-87-8005 and 3AN-87-9217 Civil
(Consolidated)

APPEAL FROM A DECISION OF THE
ALASKA LOCAL BOUNDARY COMMISSION

BRIEF OF APPELLANT
THE LAKE AND PENINSULA SCHOOL DISTRICT

John S. Hedland, Esq.
HEDLAND, FLEISCHER, FRIEDMAN,
BRENNAN & COOKE
1227 West 9th Avenue, #300
Anchorage, Alaska 99501
(907) 279-5528

for incorporation unless a property tax is levied, and if a property tax is levied, there is no rational basis for including the disputed areas. Even allowing the greatest latitude possible for Commission discretion, there is no reasonable basis for its decision to include the disputed areas.

4. A borough sales tax may not be validly enacted at the incorporation election. As noted, the department originally recommended that incorporation of the borough, regardless of the outcome of the incorporation election, be conditioned upon simultaneous enactment of a ballot proposition imposing a sales tax. R. 285. This recommendation grew out of the recognition that the borough would not impose a property tax, and that

[i]n order for the LBC to approve the incorporation proposal, it must determine that the borough is indeed financially viable. . . . Without assurance that the borough will possess the authority to levy the proposed sales tax, the department does not understand how the required determination could reasonably be made. R. 285.

L&P objected to this feature of the proposed action on two grounds, (1) that the Local Boundary Commission had no authority to accept the petition conditionally, and (2) that a tax enacted in that manner would not be valid in any event. R. 293-99. Ultimately, the Commission decided to place the sales tax proposition on the ballot, but did not condition an incorporation upon its approval. Its actions thus leave open the question of the

legitimacy of the ballot proposition relative to the tax, and the effect of its passage.⁸

Deletion of the linkage between enactment of the tax and incorporation of the borough does not solve the problem. In the first place, there is absolutely no authority whatsoever in the Constitution or laws of Alaska for the Local Boundary Commission to place a borough sales tax proposition on the ballot, at an incorporation election or otherwise. See, Alaska Constitution Article X, Section 12, which provides for the Local Boundary Commission and grants it the authority to "consider any proposed local government boundary change." Statutes defining the power of the Local Boundary Commission are contained in AS 29.05 and AS 29.06, and likewise confer no such authority. AS 29.45.650-.710 govern generally the enactment of municipal sales taxes. AS 29.45.710 permits a sales tax proposal to be placed on the ballot at an incorporation election relating to a second-class city only, and it does not apply to an election on incorporation of a borough.

⁸AS 29.05.100 and 19 AAC 10.430(a) plainly do not envision or authorize conditional acceptance of an incorporation petition. Moreover, AS 29.45.710, whose application is expressly limited to second-class cities, specifically authorizes a simultaneous election on incorporation of a second-class city and enactment of a sales tax, with incorporation dependent upon enactment of the tax proposition. There is no comparable provision relating to boroughs or first-class cities. This provision obviously applies only to the incorporation of local government entities which do not have responsibility for education.

The decision cites no authority for the placement of the sales tax proposition on the ballot. Moreover, the specific manner in which a sales tax may be levied by a borough is set out in the statutes. AS 29.45.650 provides that a borough may levy a sales tax. Under AS 29.25.010(a)(3) a tax may be levied by a municipality only through the enactment of an ordinance. AS 29.25.020 sets out certain procedures that must be followed by a municipality in enacting an ordinance, which, beyond argument, are not complied with in this case. In any event, it is conceptually impossible for an ordinance (which must be voted upon by the assembly) to be enacted simultaneously with incorporation and prior to the election of an assembly.

Finally, AS 29.45.670 provides that a borough sales tax ordinance "does not take effect until ratified by a majority of the voters at an election." Consequently, even if the borough assembly enacted a sales tax ordinance after the election, it would not be valid since Section .670 plainly requires that the election be a ratification one after enactment of the ordinance, and not prior to it.

The Commission's response to these problems was two-fold. First, it referred to AS 29.05.110(c), which it read to authorize simultaneous submittal to the voters of the question of incorporation and the approval of the assumption of areawide powers. R. 514. This reference misses the mark completely. In the first place, the Commission is simply misreading the statute,

since it authorizes non-areawide, not areawide, powers to be placed on the ballot. It states as follows:

Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second-class borough, each nonareawide power to be exercised is placed separately on the ballot. Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the voters residing in the proposed borough outside all cities in the proposed borough.

The sales tax is, beyond argument, of areawide applicability and the Commission is simply wrong in its interpretation of this statute. As the statute plainly provides, areawide powers included in the petition (which include taxation) are "considered to be part of the incorporation question." In other words, approval of the incorporation by the electorate automatically carries with it approval of areawide powers proposed in the petition, including the power of taxation.

The whole issue is moot anyway, since taxation is a mandatory areawide power of a second-class borough. See, AS 29.35.170(a); which provides, under the rubric "mandatory areawide powers", that "A borough shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.45." Finally, the Commission has totally disregarded the distinction between the taxation power, which is mandatory and automatically exists by virtue of incorporation of the borough, and the exercise of that power through the enactment

of a sales tax. Even if AS 29.05.110(c) authorized placing the question of whether the borough should have the taxing power on the ballot, that is not what occurred in this case; rather, the Commission purported to permit the borough to enact a sales tax, without prior enactment of an ordinance, at the incorporation election through an unauthorized plebiscite.

Secondly, the Commission held that it would be more convenient to ignore the law than to follow it, and stated as follows:

An interested party appearing before the Commission has objected to any simultaneous assumption of the sales and use tax power. [sic] The party argues that there must be a strict adherence to the provisions of AS 29.45.670 by first requiring the new assembly to adopt a tax ordinance and then referring it to the voters.

The Commission finds that a strict adherence to AS 29.45.670 as suggested by the interested party would exalt form over substance. The cost to the Municipality of holding an additional election and the delay occasioned by waiting for the election to be held warrants a procedure which consolidates the electoral process.

R. 514. Since the Local Boundary Commission felt that adherence to the law would "exalt form over substance", it purported to usurp the power of the legislature and simply repeal the law. It obviously does not have the authority to do so. Moreover, in this respect, the Commission also failed to appreciate not only the argument made by the "interested party" but the fundamental distinction between assumption of the taxation power (which is

mandatory and automatic with approval of the incorporation) and the exercise of that power through the enactment of a sales tax. The sales tax is null and void since it was not enacted in accordance with law.

CONCLUSION

The action of the Local Boundary Commission with respect to the eastern boundary of the Aleutians East Borough should be reversed.

DATED at Anchorage, Alaska, this 15th day of January, 1988.

HEDLAND, FLEISCHER, FRIEDMAN,
BRENNAN & COOKE
Attorneys for Appellant
The Lake and Peninsula
School District

By 

John S. Hedland

S B

98

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to the penalty imposed for certain traffic offenses
 Sponsor: Fahrenkamp
 Requestor: (S) CRA

Agency Affected: H&SS
 BRU: State Health Services
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Elizabeth Ward, Director *E. Ward* Phone: 465-3090
 Division: Public Health Date: 2/24/89

Approved by Commissioner: Myra M. Munson *Myra M. Munson* Date: 3/6/89
 Agency: Department of Health and Social Services

Distribution (by preparer):

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

Position Paper

Senate Bill No. 98

For an Act Entitled: "An Act relating to the penalty imposed for certain traffic offenses."

This Act would amend AS 28.05.151 to allow a ten percent (10%) reduction in the fine or bail that would otherwise be applicable to a moving traffic violation if the driver and all passengers are wearing their safety belts or appropriate safety devices at the time of the commission of the infraction.

Discussion

Motor vehicle crashes are a leading cause of death, injury, and disability. They are the leading cause of death to persons between 1 and 14 years of age. For teenagers, car crash fatalities outnumber the next five causes of death combined. Numerous studies have shown that safety belts and other vehicle safety devices, such as child restraints, substantially reduce the likelihood of death or injury to motor vehicle occupants involved in crashes. Efforts to educate the public about the benefits of safety belts have met with some success, but many people still fail to wear their safety belts.

The intent of this Act is to provide an incentive for some individuals to wear their safety belts by reducing the fine or bail imposed for a traffic violation. The department has found no evidence in the literature that such a law would have as much of a measurable impact on persuading people to wear safety belts as would legislation requiring mandatory safety belt use. However, this law could complement a mandatory safety belt use law and may provide an added incentive for persons to wear their safety belts.

Position

The Department of Health and Social Services supports the intent of this Act. However, the department does not see this Act as a substitute for a mandatory safety belt use law. The department does, however, see this Act as a complement to a mandatory safety belt use law.

Recommended: Elizabeth Ward
Elizabeth Ward, M.N., Director
Division of Public Health

Date: March 6, 89

Approved: Myra M. Munson
Myra M. Munson, Commissioner
Department of Health and
Social Services

Date: March 6, 1989

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 98
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to the penalty imposed for certain traffic offenses."
Sponsor: Senator Fahrenkamp
Requestor: Senate C&RA

Agency Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments & C.I.B.

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)
No fiscal impact is anticipated.

Prepared by: Francis C. Allan *G.C.A.*
Division: Alaska State Troopers

Phone: 269-5691
Date: 01/20/89

Approved by Commissioner: S.U.H. English
Agency: Department of Public Safety

Date: 1-24-89

**Community and Regional Affairs Committee
February 21, 1989**

SB 98: An act relating to the penalty imposed for certain traffic offenses
Sponsor: Fahrenkamp, Coghill and Eliason
Fiscal: none

THE NEXT BILL BEFORE THE COMMITTEE IS SENATE BILL 98, AN ACT RELATING TO THE PENALTY IMPOSED FOR CERTAIN TRAFFIC OFFENSES. THIS BILL WOULD GIVE A 10 PERCENT REDUCTION IN THE AMOUNT OF BAIL OR FINE IF THE DRIVER OR PASSENGERS IN A CAR THAT WAS CITED FOR A MOVING VEHICLE VIOLATION WERE WEARING SEATBELTS.

IN YOUR PACKETS ARE A SECTIONAL ANALYSIS, A ZERO FISCAL NOTE, A POSITION PAPER FROM THE DEPARTMENT OF PUBLIC SAFETY AND RELATED STATUTES.

SENATOR FAHRENKAMP IS HERE TO SPEAK FURTHER.

ALSO HERE: MAYBE ELLEN MOORE FROM PUBLIC SAFETY

ON TELECONFERENCE. Bill — FROM COURT SYSTEM

Alaska Court System

Fiscal Analysis for SB 98

This legislation allows a 10 percent reduction in traffic bail or fine amounts for moving violations, if all persons in the vehicle are wearing seatbelts at the time of committing the infraction. This legislation will reduce fine and forfeiture revenues to the state.

To estimate the fiscal impact, the court obtained information from the Alaska Seatbelt Use Coalition on seatbelt utilization. The Coalition's studies indicate that approximately 35 percent of Anchorage drivers and 39 percent of Fairbanks drivers wear seatbelts or a simple average of 37 percent for both areas. Information is not available for other areas of the state or for passenger seatbelt usage. For estimating the impact of this legislation on revenues, it is assumed that driver and passenger seatbelt utilization will average 37 percent for the entire state.

The fiscal impact is estimated as follows:

Estimated statewide traffic violation revenues from moving violations	\$520,000
Estimated percentage of seatbelt usage	37% -----
Estimated statewide revenues for traffic violations involving drivers and passengers using seatbelts	192,400
Bail or fine reduction percentage for seatbelt use	10% -----
Estimated reduction in statewide traffic violation revenues	\$19,240 =====

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, RESOURCES COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 458-2899



Senate

WHILE IN JUNEAU
PO. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 485-3834
HOME (907) 780-8027

MEMORANDUM

TO: Senator Al Adams, Chairman
Senate Community & Regional Affairs Committee

FROM: Senator Bettye Fahrenkamp

DATE: February 20, 1989

RE: Sectional Analysis of SB 98

SB 98 "An Act Relating to the penalty imposed for certain traffic offenses".

Section 1. AS 28.05.151 Citations for scheduled vehicle and traffic offenses.

Amended to include reference to proposed Section 2 of the bill.

Section 2. AS 28.40.050 Penalty for violations of law, regulations, and municipal ordinances.

Adds a new subsection (f) which would give a 10% reduction in the amount of a bail or fine if the driver and any passengers were wearing seatbelts at the time of a commission of a moving traffic infraction for which the Supreme Court has established a scheduled amount of bail.*

*Examples of such infractions are speeding, ignoring a stop sign or red light, i.e. infractions that do not carry jail time or require a court appearance. It does not apply to felonies, misdemeanors, or infractions requiring court appearances. For instance, if a driver was charged with driving while intoxicated, reckless driving, or negligent homicide, he or she would not receive a reduction.

(b) The administrator of each party state shall furnish to the administrator of each other party state the information or documents reasonably necessary to facilitate the administration of the compact. (§ 18 ch 60 SLA 1986)

Sec. 28.37.180. Compact as law; withdrawal procedure.

(a) The compact shall become effective as to any state in which the compact becomes effective as the law of that state.

(b) A party state may withdraw from the compact by enacting a statute repealing the compact as the law of the state, but a withdrawal may not take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring before the withdrawal. (§ 18 ch 60 SLA 1986)

Sec. 28.37.190. Construction and validity; severability. The compact shall be liberally construed so as to effectuate its purposes. The provisions of the compact are severable and if any phrase, clause, sentence, or provision of the compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of it to a government, agency, person or circumstance is held invalid, the validity of the remainder of the compact and the applicability of it to any government, agency, person or circumstance shall not be affected by it. If the compact is held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (§ 18 ch 60 SLA 1986)

Chapter 40. General Provisions.

Section

50. Penalty for violations of law, regulations, and municipal ordinances

Section

100. Definitions for title

Sec. 28.40.050. Penalty for violations of law, regulations, and municipal ordinances. (a) It is a misdemeanor for a person to violate a provision of this title unless the violation is by this title or other law declared to be a felony or an infraction.

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than \$500, or by imprisonment for not more than 90 days, or by both. In addition, the privilege to drive or the registration of vehicles may be suspended or revoked.

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(c) Unless otherwise specified by law a person convicted of a violation of a regulation adopted under this title, or a municipal ordinance regulating vehicles or traffic when the municipal ordinance does not correspond to a provision of this title, is guilty of an infraction and is punishable by a fine not to exceed \$300.

(d) An infraction, as provided for in (c) of this section, is not considered a criminal offense and may not result in imprisonment, nor is a fine imposed for the commission of an infraction considered a penal or criminal punishment; nor may the commission of a single infraction result in the loss of a driver's license or privilege to drive in this state except as may result from the accumulation of points under AS 28.15.221 — 28.15.261, or the registration of vehicles; nor does a person cited with an infraction have a right to trial by jury or to court-appointed counsel.

(e) [Repealed, § 5 ch 85 SLA 1987.] (§ 50-1-8 ACLA 1949; am § 12 ch 241 SLA 1976; am §§ 22, 23 ch 144 SLA 1977; am § 5 ch 85 SLA 1987)

Effect of amendments. — The 1987 amendment repealed subsection (e), concerning overweight penalties.

NOTES TO DECISIONS

Prerequisite to suspension of license or privilege to drive. — A driver's license or privilege to drive cannot properly be suspended unless the driver was in fact licensed or otherwise actually privileged to drive a motor vehicle within the state. *Roberts v. State*, Ct. App. Op. No. 478 (File No. A-342), 700 P.2d 815 (1985).

Generic penalty provision. — Subsec-

tion (b) is not a penalty provision dealing specifically with the offense of driving while license suspended; rather it is a generic penalty provision, broadly applicable to violations of all Title 28 provisions for which the specific penalties are given. *Roberts v. State*, Ct. App. Op. No. 478 (File No. A-342), 700 P.2d 815 (1985).

Sec. 28.40.100. Definitions for title. (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means the annulment or termination by formal action of the department of a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commissioner" means the commissioner of public safety;

(3) "department" means the Department of Public Safety;

(4) "driver" means a person who drives or is in actual physical control of a vehicle;

(5) "driver's license", or "license" when used in relation to driver licensing, means a license, permit, or privilege to obtain a driver's

**STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE**

JAN 26 1989

REQUEST: _____ Bill Version: SB 98
 Publish Date: 1/10/89

Revision Date: _____ Agency Affected: Alaska Court System
 Title: An act relating to the penalty BRU: Trial Courts
 imposed for certain traffic offenses
 Sponsor: _____ Components: _____
 Requestor: Fahrenkamp

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE	(19.2)	(19.2)	(19.2)	(19.2)	(19.2)

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/23/89

Approved by: *Stephanie Cole for* Arthur H. Snowden, II, Administrative Director Date: 01/23/89
 Agency: Alaska Court System

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)
 Senate Secretary

BILL NO: SB 98

DATE: 02/21/89

TITLE: "An act relating to the
penalty imposed for
certain traffic offenses"

CONTACT: Ellen Moore
Program Coordinator
HSPA
465-4375

DEPARTMENT OF
PUBLIC SAFETY

This bill would reduce by 10 percent the fine imposed on violators of traffic laws if they and their passengers were wearing seatbelts when stopped by the citing officer. This bill may provide an incentive for persons to wear seatbelts.

The citing officer would have to be very alert to know if the occupants were actually using their seatbelts at the time of the offense, or simply put them on when they realized they were being stopped.

The Department of Public Safety takes no position on this legislation.



for Arthur English
Commissioner

11-11-89

S B

104

C&RA COMMITTEE
TUESDAY
MARCH 21, 1989

SB 104: AN ACT RELATING TO FOURTH CLASS BOROUGHES
SPONSOR: COGHILL
FISCAL: NONE

THE NEXT BILL BEFORE THE COMMITTEE IS SENATE BILL 104, AN ACT RELATING TO FOURTH CLASS BOROUGHES. THIS BILL WOULD ALLOW FOR THE ESTABLISHMENT OF FOURTH CLASS BOROUGHES AS A CLASS OF GENERAL LAW MUNICIPALITY. A FOURTH CLASS BOROUGH WOULD BE PROHIBITED FROM EXERCISING EDUCATIONAL POWERS.

SENATOR COGHILL, THE BILL'S SPONSOR IS HERE TO SPEAK FURTHER ON HIS BILL.

PLASMAN

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

To: Senator Al Adams

From: Senator Jack Coghill

Re: Bill hearing

Date: January 19, 1989

Senate Bill 104, "An Act relating to fourth class boroughs" has been referred to the Senate Community and Regional Affairs Committee.

SB 104 would provide for the establishment of a fourth class borough as a class of general law municipality. Establishment of a fourth class borough has been modeled after a third class borough with one exception, a fourth class borough is prohibited from exercising educational powers.

A fourth class borough would constitute a minimal form of government. It would enable areas in the unorganized borough to ease into an organized form of government. By establishing a fourth class borough, we have provided a stair-step approach to organized government. I believe residents in the unorganized area will have more of an incentive to organize themselves into a government entity under the fourth class borough proposal.

Enclosed is the sectional analysis on SB 104. We have requested a fiscal note from the Department of Community and Regional Affairs, but have not received it yet. I would appreciate if you would schedule SB 104 for a hearing as soon as possible.

If you have any questions regarding SB 104, please feel free to contact my office.

memo to ADAMS

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to fourth class boroughs."
Sponsor: Coghill
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached..

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
Division: Municipal & Regional Assistance Date: 2/7/89

Approved by Commissioner: [Signature] DC, CRA Date: 6 Feb 89
Agency: Community & Regional Affairs

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE CONTINUATION

SB 104

The department has taken the position of zero fiscal impact from this bill because this bill does not mandate the creation of any new boroughs. However, it should be noted that any fourth class boroughs that are created pursuant to this legislation would be entitled to receive financial assistance from the state through a number of different programs. As any other new borough, a fourth class borough would be entitled to organizational grants under AS 29.05.190 in the amounts of \$300,000 the first year, \$200,000 the second year, and \$100,000 the third year. The borough would be entitled to participate in various tax sharing programs, such as the fish tax revenue sharing program. These impacts would fall upon the state. Any new borough would also be entitled to participate in the state revenue sharing and municipal assistance programs. The financial impact in these programs would fall predominately on other recipients (mainly municipalities) unless the state put in additional funds to compensate for the new participants.

TOLSONA COMMUNITY CORPORATION
Box 23
Glennallen AK 99588

January 21, 1989

JAN 27 1989

Senator Jack Coqhill
Box V
Juneau AK 99811

Dear ~~Senator Coqhill~~ ^{Jack}:

Thanks for the information regarding your borough bill. It seems to address most of the concerns of the residents in the Copper River area.

1. Education:

The cost of operating the schools would take so much of the budgets of many of the proposed boroughs that they become unfeasable to opperate. Your proposal solves this by retaining state funding of the schools.

2. Political:

In the Copper River basin, the school board is the only political game in town and it therefore becomes the stage for all local would-be politicians to play their games. By having another elected body in the area, some of these types would choose to act in that arena and leave the school board to those who are sincerely interested in education.

3. Protection:

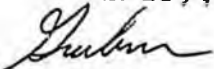
By forming a 4th class borough the area would protect itself from encroachment from neighboring boroughs and yet not have to assume the massive burden of the schools and large borough bureaucracy.

4. Existing Services:

A concern I do have, as president of Tolsona Community Corporation, is the status of revenue sharing under a 4th class borough. Village councils and Non-profit corporations share about \$150,000 in the Copper River area and if the new borough would tax itself, it could easily raise enough money to continue the services provided by these organizations as well as operate the borough and provide additional funds for the school district. But, what would happen if the borough chose not to tax? (operate with volunteers)

Except for this concern, I think that your proposal would be a good vehicle to allow formation of boroughs in many of the REAAs in the state.

Sincerely,



Graham Ward

FOURTH CLASS BOROUGH NOTES

SB 104 would provide for the establishment of a Fourth Class Borough as a class of general law municipality. Establishment of a Fourth Class Borough has been modeled after a Third Class Borough.

A Fourth Class Borough would constitute a minimal form of government. It is similar to a Third Class Borough with the exception that a Fourth Class Borough is prohibited from exercising educational powers.

The standards for incorporation of a Fourth Class Borough are identical to those for other boroughs. The only area-wide power granted to Fourth Class Boroughs upon incorporation is taxation. However, a Fourth Class Borough would not have to tax if the assembly did not want to. Any taxation would be passed by the assembly in the form of an ordinance. Any other power the borough wants to acquire, can only be exercised in a service area.

A Fourth Class Borough can establish service areas. Any power which is not otherwise prohibited by law to be exercised in a service area must be voted on by the residents of the service area, unless nobody lives in the area.

Unlike the other classifications of boroughs, when a Fourth Class Borough incorporates, it does not have any mandatory powers. Other classifications usually have a mandatory provision to provide for education and taxation

One thing to keep in mind is that the establishment of a Fourth Class Borough does not give 100% protection from annexation of the borough's territory by another borough. The Local Boundary Commission can consider any boundary changes. However, by the establishment of a Fourth Class Borough, it would give the area a form of government to oppose annexation and make annexation more difficult.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 13, 1989

SUBJECT: Fourth class boroughs
(Work Order No. 6-0229A)

TO: Senator Jack Coghill

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

Here is the sectional analysis that you requested of the draft bill relating to fourth class boroughs.

Sec. 1. Fourth class boroughs are to be included into educational service areas.

Sec. 2. Deletes a reference to the unorganized borough, since service areas will include fourth class boroughs under this legislation.

Sec. 3. First class and home rule cities in a fourth class borough are city school districts, as is the case now with those types of cities located in the unorganized borough. Makes some technical, but not substantive changes, to properly identify all classifications of municipalities and their powers with respect to education.

Sec. 4. Adds the fourth class borough as a class of general law municipality.

Sec. 5. Permits a fourth class borough to reclassify as a first or second class borough in the manner that reclassification is currently permitted for other types of boroughs.

Sec. 6. Establishes standards for incorporation of a fourth class borough that are identical to those for other boroughs.

Sec. 7. Identifies boroughs that are school districts. A fourth class borough is not included. Under existing law all boroughs are school districts.

Sectional Analysis

Sec. 8. Sets out powers of a fourth class borough which are similar to those of the third class borough, except a fourth class borough may not function as a school district.

Sec. 9. Requires a home rule city and first class city in a fourth class borough to provide for planning, platting and land use regulation, as is the case for those types of cities in the third class borough. Permits a second class city to do so.

Sec. 10. Provides that a home rule or first class city in a fourth class borough is a school district, as is the case for such cities located in the unorganized borough.

Sec. 11. Permits a fourth class borough to exercise in a service area any power not otherwise prohibited, as is the case for the third class borough.

Sec. 12. Treats fourth class boroughs the same as second and third class boroughs with respect to service areas containing only vacant land.

Sec. 13. Provides that in areas of the unorganized borough where no city exercises the power of land use regulation the division of land shall exercise the zoning power. This provision treats fourth class and third class boroughs alike, but neither type can provide land use regulation except on a service area basis. Perhaps the provision should be modified to allow the division of lands to zone in any area where no municipal land use regulation is being exercised, including within third class and fourth class boroughs and certain second class cities. This, however, would go beyond the scope of this bill.

Sec. 14. Fourth class boroughs are treated like the third class borough with respect to the power of the division of lands to exercise zoning power in areas covered by the Alaska coastal management program.

Sec. 15. Fourth class boroughs are treated like the third class borough with respect to subdivisions of state land. Like the provision dealt with in Section 13, this provision does not now appear to adequately recognize the existing scheme for municipal exercise of land use regulation, but to correct the provision would be beyond the scope of this bill.

Sec. 16. Fourth class boroughs are treated like the third class borough with respect to the platting authority of the

Senator Jack Coghill
Page 3
January 13, 1989

Department of Natural Resources. Like the provision dealt with in Sections 13 and 15, this provision does not now appear to adequately recognize the existing scheme for municipal exercise of land use regulation, but to correct the matter would be beyond the scope of this bill.

TBC:kb
wkk1/033

Senator John B. (Jack) Coghill

Alaska State Legislature

LEGISLATIVE REPORT

BY

SENATOR JACK COGHILL



Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

I have recently introduced Senate Bill 104, "an Act relating to fourth class boroughs." This bill would provide for the establishment of a fourth class borough as a class of general law municipality. A fourth class borough would constitute a very minimal form of organized government. It would enable areas in the unorganized borough, that want to form a government structure, to ease into an organized form of government. Unlike the other classifications of boroughs, when a fourth class borough incorporates, it would not have any mandatory powers. Other boroughs usually have a mandatory provision to provide for education and taxation.

The standards for incorporation of a fourth class borough are identical to those for other boroughs. A fourth class borough would be prohibited from establishing a school district. In fact, the only area-wide power granted to a fourth class borough upon incorporation, would be taxation. However, just because they have that power, it does not mean the new borough would have to exercise it. The borough would only have to tax to generate revenues to provide for "extra" services the residents may want.

You may be wondering why on earth I would introduce a fourth class borough bill. Well, as you may recall, during the 15th Legislature Representative Ron Larson introduced legislation that would create mandatory boroughs. This session he introduced a similar bill. I am adamantly opposed to any form of mandatory borough. I believe local government should be up to the people, not forced upon them. But we must keep in mind the interest and support that is developing on the concept of new borough formation in the unorganized areas of the state. I felt, by introducing legislation that allows for the establishment of fourth class boroughs, we would be providing an alternative for the Administration to consider instead of them advocating a mandatory borough policy. We would also be allowing residents of an area to protect their interests from annexation procedures by other established boroughs.

Please keep in mind that SB 104 does not mandatorily force the establishment of fourth class boroughs. It merely provides an avenue to establish a very minimal borough government. I assure you I will continue to fight against the mandatory borough concept. On a final note, I would like to take this opportunity to publicly thank the Copper River Borough Committee for their help and input in formulating SB 104.

If you have any questions regarding SB 104, please feel free to contact my office at P.O. Box V, Juneau AK 99811.

S B

105

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2.16.89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2.21.89

1/11/89

Mr. President:

C&RA

Committee considered

SB 105

unification of municipalities

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

1 rule change - NO REC

Grant NO REC

Pat Bennett NO REC

Malcolm Peirce NO REC

Do Pass

Ch'zman signature and recommendation

Committee backup attached

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

To: Senator Al Adams
From: Senator Jack Coghill
Re: Bill hearing
Date: January 19, 1989

Senate Bill 105, "an Act relating to the unification of municipalities" has been referred to the Senate Community and Regional Affairs Committee.

I was requested by the City of North Pole to introduce SB 105. This bill would change how often the formation of a charter commission to prepare a unification charter could be submitted to the voters from once every 12 months to once every 36 months.

Currently the formation of a charter commission can be proposed by either a resolution of the assembly or petition. SE 105 changes the signature requirement on the petition to include signatures from voters in each home rule or first class city in the borough equal to 25% of the votes cast in each of the cities in the last borough election. Currently in statute, the 25% petition signature requirement could be met by signatures from 25% of the voters in all home rule and first class cities in the borough.

SB 105 would also change the way the votes are tabulated. The votes on the question of formation of a charter commission would be separated into classifications. Votes cast in each home rule and first class city in the borough would be tabulated individually into separate classifications, instead of lumped together. In order for the charter commission to be approved, a majority of the votes in each classification must favor formation of the commission.

On an issue as important as unification, all residents in the borough should have equal say. Under current statute, the larger populated cities in the borough would always be able to determine the outcome of a unification proposal.

I would appreciate if you would schedule SB 105 for a hearing as soon as possible. Both the sectional analysis and fiscal note have been requested. We will forward them as soon as they are received.

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 17, 1989

POSITION PAPER

RE: Senate Bill 105

SPONSOR: Senator Coghill

Program Effects

The bill makes two main changes to the unification process. First, it would limit consideration of the question to once every three years, rather than every year as at present. Second, it would provide that each home rule and first class city within the borough be treated separately, rather than together, for the purposes of required petition signatures, voting on the question of formation of a charter commission, and voting on the ratification of the home rule charter.

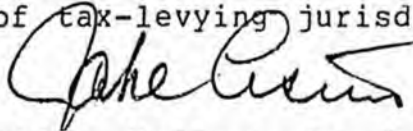
Comments

Article X, Section 1 of the Alaska State Constitution provides: "The purpose of this article is to provide for maximum self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units." The unification process, whereby the cities within a borough are unified with the borough to form a single unified municipality governed by a home rule charter, provides a means of accomplishing the constitutional goals of minimization of local government units and prevention of duplication of tax-levying jurisdictions.

Determining the appropriate limitation on consideration of the formation of a charter commission requires striking a balance between the interest in reasonably allowing the people to consider the question and the interest in not allowing frivolous requests which will dilute interest and resources devoted to discussion of the issue. The department feels a one year limitation is appropriate.

Senate Bill 105
February 17, 1989
Page Two

Treatment of first class and home rule cities separately, rather than as a class, for the purpose of petitioning for and voting on the charter commission and charter has the effect of giving each city a veto power over the question. Such effect could result even though an area-wide total vote favors a particular course of action by a wide margin. The existing structure, treating the cities as a separate class, may be justified as a reasonable exercise of self-government. However, the department feels the proposed treatment of each first class and home rule city separately is an unreasonable inhibition of the popular will and, in light of the constitutional goals of minimization of local government units and prevention of duplication of tax-levying jurisdictions, is not warranted.


for David G. Hoffman, Commissioner

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU ALASKA 99811
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 23, 1989

SUBJECT: Unification of municipalities (SB 105)
TO: Senator Jack Coghill
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is a sectional analysis that you requested of SB 105.

Sec. 1. Permits the question of unification, whether it originates as a result of petition or resolution, to be submitted to the voters not more often than once every 36 months.

Sec. 2. Requires a unification petition to be signed by voters in each home rule and first class city equal to 25 percent of the votes cast in each of these cities in the last regular borough election. The existing requirement as to signatures of city residents is cumulative--that is a percentage of all the voters is used without regard to the particular city the voters reside in.

Sec. 3. Like the petition signature requirement in section 3, this requires the votes on the question of formation of a charter commission to be tabulated separately for each home rule and first class city. Votes of borough residents outside of these cities is tabulated in another, single classification. Each separately tabulated classification must approve the formation of a charter commission before one can be formed.

Sec. 4. The changes reflect the fact that approval of a unification charter must be achieved in each home rule and first class city before the charter is adopted.

TBC:gc
WKG6/019

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to unification of municipalities."
 Sponsor: Coghill
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Jim Plasman

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 1-20-89
 Approved by Commissioner: [Signature] DC Date: 20 Jan 89
 Agency: Community & Regional Affairs

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

Section
 360. Election on charter
 370. Effect of the charter after ratification
 380. Assets and liabilities

Section
 390. Transition
 400. Right to state and federal aid
 410. Powers of a unified municipality
 420. Application

Sec. 29.06.190. Unification of municipalities authorized. A borough and all cities in the borough may unite to form a single unit of home rule government by complying with AS 29.06.190 — 29.06.410. (§ 5 ch 74 SLA 1985)

NOTES TO DECISIONS

Unification is consistent with the purpose expressed in Alaska Const., art. X, § 1, of minimizing the number of local government units. *City of Douglas v. City & Borough of Juneau*, Sup. Ct. Op. No. 672 (File No. 1379), 484 P.2d 1040 (1971), decided under former, similar law. Coexistence of cities and boroughs

not required. — Alaska Const., art. X, § 2, merely authorizes but does not require the coexistence of cities and boroughs. *City of Douglas v. City & Borough of Juneau*, Sup. Ct. Op. No. 672 (File No. 1379), 484 P.2d 1040 (1971), decided under former, similar law.

Sec. 29.06.200. Unification proposed. (a) Formation of a charter commission to prepare a unification charter shall be proposed by resolution of the assembly or by petition. A resolution to propose formation of a charter commission may be adopted not more often than once every 12 months.

(b) An assembly, a council, or a person living in the area proposed for unification may initiate a unification petition. (§ 5 ch 74 SLA 1985)

Sec. 29.06.210. Petition requirements. (a) A unification petition shall read:

"PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER. We, the undersigned, qualified voters of the borough do hereby petition that the following proposition be placed before the voters as provided by law: 'Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified municipality as authorized by law? Yes [] No []'

		Inside First	Outside First
		Class or	Class or
Signature	Address	Home Rule City []	Home Rule City []"

(b) The petition shall be signed by at least

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 candidate

(1) the number of voters residing outside all home rule and first class cities in the borough equal to 25 percent of the votes cast in that area in the last regular borough election; and

(2) the number of voters residing in home rule or first class cities in the borough equal to 25 percent of the votes cast in all home rule and first class cities in the borough in the last regular borough election. (§ 5 ch 74 SLA 1985)

Sec. 29.06.220. Review of petition. The assembly shall review a unification petition within 15 days to determine whether it complies with AS 29.06.210. If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied. (§ 5 ch 74 SLA 1985)

Sec. 29.06.230. Duties of charter commission. The charter commission shall prepare, adopt, and submit to the voters for approval or rejection a proposed home rule charter for the area to be unified. (§ 5 ch 74 SLA 1985)

Sec. 29.06.240. Composition of charter commission. The charter commission shall consist of 11 voters, three of whom are residents elected at large from the borough and eight of whom, proportionate to the population as determined by the department, are

(1) residents of and elected from the area outside all home rule and first class cities in the borough; or,

(2) residents of and elected from home rule or first class cities in the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.250. Charter commission nominations. (a) If the assembly determines that a unification petition meets the requirements of AS 29.06.210, or the assembly by its resolution proposes an election on formation of a charter commission, the assembly shall issue a call for the nomination of commission candidates, specifying the filing deadline and the procedure for making nominations.

(b) Charter commission candidates shall be nominated by petition signed by at least 50 voters of the area from which the candidate seeks election, or by a number of voters from that area equal to at least 10 percent of the number of votes cast from that area in the last regular borough election, whichever is less.

(c) Nomination petitions shall be filed with the borough clerk at least 30 days after notice of the call for nominations has been given and on or before a date fixed by the assembly.

(d) If at least one nomination of a qualified charter commission candidate for each available seat is not filed, the unification petition

or resolution to propose formation of a charter commission is void and no election on the question shall be held. (§ 5 ch 74 SLA 1985)

Sec. 29.06.260. Qualifications of candidates. A person is eligible to be nominated as a candidate for the charter commission if that person is a voter of the area from which election is sought and has been a voter of the area for at least one year immediately preceding the date the nomination petition is filed. (§ 5 ch 74 SLA 1985)

Sec. 29.06.270. Election of charter commission. (a) After receipt of a valid unification petition or adoption of an assembly resolution to propose formation of a charter commission, the assembly shall submit to the voters the question of whether a charter commission shall be formed to prepare a proposed unification charter. The vote shall be held at the next regular borough election scheduled at least 90 days after receipt of the petition or adoption of the resolution. The ballot shall be worded exactly as in AS 29.06.210(a).

(b) The election of charter commission members shall take place at the same time as the election on the question of formation of the commission.

(c) All costs incurred in conducting an election under AS 29.06.190 — 29.06.410 shall be paid by the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.280. Requirements for approval of formation and election of charter commission. (a) The votes on the question of formation of a charter commission shall be tabulated in two separate classifications. One classification consists of all votes cast in first class and home rule cities in the borough. The other classification consists of all votes cast in the remaining area of the borough. In order for formation of a charter commission to be approved, a majority of the votes in each classification must favor formation of the commission.

(b) If formation of a charter commission is approved, the candidates who received the highest number of votes from their respective areas shall serve as members of the commission. (§ 5 ch 74 SLA 1985)

Sec. 29.06.290. Charter commission organization and procedure. (a) The charter commission shall hold its first meeting within 30 days after certification of its election. The commission shall elect from among its members a chairman and a deputy chairman.

(b) A majority of the total membership of the charter commission constitutes a quorum. A decision of the commission is not valid or binding unless approved by the number of members necessary to constitute a quorum.

(c) The charter commission may elect other officials from among its membership, adopt rules governing its procedures that are consistent with AS 29.06.190 — 29.06.410 and hire and discharge employees.

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(3) designation of the proposed unified municipality's official name; and

(4) other charter provisions that may be included in a home rule charter. (§ 5 ch 74 SLA 1985)

NOTES TO DECISIONS

This section requires a home rule charter to provide for apportionment. Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977), decided under former, similar law.

Sec. 29.06.330. Public hearings. Both before and after drafting the proposed home rule charter, the charter commission shall hold a public hearing in each area represented on the assembly. Other public hearings may be held by the commission as it considers necessary. (§ 5 ch 74 SLA 1985)

Sec. 29.06.340. Filing of proposed charter. Upon the adoption of a proposed home rule charter by the charter commission, the charter shall be signed by at least a majority of the total membership of the commission and shall be filed with the borough clerk. A copy of the charter with signatures affixed shall also be filed with the clerk of each city in the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.350. Publication and posting of proposed charter. Within 10 days after filing the proposed home rule charter, the borough clerk shall have it published. In addition, the clerk shall have a copy of the proposed charter posted in at least three public places in each city and each unincorporated community in the borough. Copies of the proposed charter shall be made available by the assembly to the public at both the office of the borough clerk and the office of the clerk of each city in the borough. The clerk shall have notice of the publication, posting, and availability of the proposed charter published. (§ 5 ch 74 SLA 1985)

Sec. 29.06.360. Election on charter. (a) The proposed home rule charter adopted by the charter commission shall be submitted to the voters at a borough election held within 60 days of the date of publication and posting of the proposed charter. The borough clerk shall prepare the ballots for use in the election and shall give notice of the election by radio and television in a manner intended to apprise the entire borough population of the election. The election shall be conducted under procedures applicable to regular elections.

(b) A person who is a voter of the borough may vote in the election on the proposed charter.

(c) If a home rule and proposed charter shall

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DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

- P.O. BOX E
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 17, 1989

POSITION PAPER

RE: Senate Bill 105

SPONSOR: Senator Coghill

Program Effects

The bill makes two main changes to the unification process. First, it would limit consideration of the question to once every three years, rather than every year as at present. Second, it would provide that each home rule and first class city within the borough be treated separately, rather than together, for the purposes of required petition signatures, voting on the question of formation of a charter commission, and voting on the ratification of the home rule charter.


Comments

Article X, Section 1 of the Alaska State Constitution provides: "The purpose of this article is to provide for maximum self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units." The unification process, whereby the cities within a borough are unified with the borough to form a single unified municipality governed by a home rule charter, provides a means of accomplishing the constitutional goals of minimization of local government units and prevention of duplication of tax-levying jurisdictions.

Determining the appropriate limitation on consideration of the formation of a charter commission requires striking a balance between the interest in reasonably allowing the people to consider the question and the interest in not allowing frivolous requests which will dilute interest and resources devoted to discussion of the issue. The department feels a one year limitation is appropriate.

Senate Bill 105
February 17, 1989
Page Two

Treatment of first class and home rule cities separately, rather than as a class, for the purpose of petitioning for and voting on the charter commission and charter has the effect of giving each city a veto power over the question. Such effect could result even though an area-wide total vote favors a particular course of action by a wide margin. The existing structure, treating the cities as a separate class, may be justified as a reasonable exercise of self-government. However, the department feels the proposed treatment of each first class and home rule city separately is an unreasonable inhibition of the popular will and, in light of the constitutional goals of minimization of local government units and prevention of duplication of tax-levying jurisdictions, is not warranted.


for David G. Hoffman, Commissioner

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465 4797

Box 55028
North Pole, Alaska 99705
(907) 488 0862



MEMORANDUM

To: Senator Al Adams
From: Senator Jack Coghill
Re: Bill hearing
Date: January 19, 1989

Senate Bill 105, "an Act relating to the unification of municipalities" has been referred to the Senate Community and Regional Affairs Committee.

I was requested by the City of North Pole to introduce SB 105. This bill would change how often the formation of a charter commission to prepare a unification charter could be submitted to the voters from once every 12 months to once every 36 months.

Currently the formation of a charter commission can be proposed by either a resolution of the assembly or petition. SB 105 changes the signature requirement on the petition to include signatures from voters in each home rule or first class city in the borough equal to 25% of the votes cast in each of the cities in the last borough election. Currently in statute, the 25% petition signature requirement could be met by signatures from 25% of the voters in all home rule and first class cities in the borough.

SB 105 would also change the way the votes are tabulated. The votes on the question of formation of a charter commission would be separated into classifications. Votes cast in each home rule and first class city in the borough would be tabulated individually into separate classifications, instead of lumped together. In order for the charter commission to be approved, a majority of the votes in each classification must favor formation of the commission.

On an issue as important as unification, all residents in the borough should have equal say. Under current statute, the larger populated cities in the borough would always be able to determine the outcome of a unification proposal.

I would appreciate if you would schedule SB 105 for a hearing as soon as possible. Both the sectional analysis and fiscal note have been requested. We will forward them as soon as they are received.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 23, 1989

SUBJECT: Unification of municipalities (SB 105)
TO: Senator Jack Coghill
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is a sectional analysis that you requested of SB 105.

Sec. 1. Permits the question of unification, whether it originates as a result of petition or resolution, to be submitted to the voters not more often than once every 36 months.

Sec. 2. Requires a unification petition to be signed by voters in each home rule and first class city equal to 25 percent of the votes cast in each of these cities in the last regular borough election. The existing requirement as to signatures of city residents is cumulative--that is a percentage of all the voters is used without regard to the particular city the voters reside in.

Sec. 3. Like the petition signature requirement in section 3, this requires the votes on the question of formation of a charter commission to be tabulated separately for each home rule and first class city. Votes of borough residents outside of these cities is tabulated in another, single classification. Each separately tabulated classification must approve the formation of a charter commission before one can be formed.

Sec. 4. The changes reflect the fact that approval of a unification charter must be achieved in each home rule and first class city before the charter is adopted.

TBC:gc
WKG6/019

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to unification of municipalities."
 Sponsor: Coghill
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Jim Plasman

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 1-20-89

Approved by Commissioner: [Signature] DC Date: 20 JAN 89
 Agency: Community & Regional Affairs

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

P.O. BOX 55109
NORTH POLE, ALASKA
99705



TOP OF THE WORLD
PHONE: 907-488-2281
AT YOUR SERVICE

January 16, 1989

The Honorable Senator Jack Coghill
P. O. Box V
Juneau, Alaska 99811

Re: Proposed Title 29 Amendments

Dear Jack:

The City of North Pole is in receipt of SB105 and the corresponding house bill, HB40. The city council is in unanimous support of the legislation.

As you are aware, recent changes in Title 29 legislation failed to protect small cities from unification proceedings. It is the hope of the City of North Pole that passage of these bills as drafted will help remedy that inequity.

Your colleague, Representative Mike Miller, has introduced the house version (HB40) and also supports our endeavors. In addition, we are requesting assistance from the Alaska Municipal League through its Director, Scott Burgess.

The people in the North Pole area overwhelmingly support this legislation. The city will encourage as many of them to correspond with you as possible.

Thank you for your support. Please keep the city posted as to the progress of the bills. We stand ready to do anything within our powers to ensure passage.

Sincerely,

Carleta Lewis
Mayor

CL/kl

cc: The Honorable Representative, Mike Miller
Alaska Municipal League, Scott Burgess, Director

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150

Provided to the Senate Community & Regional Affairs Committee
by Senator Duncan, March 8, 1990

Major provisions in CS SS SB 150 (State Affairs) are as follows:

☆☆Section 1.

(Page 1, line 12) Sec. 18.56.083. **Bonds for Senior Housing.**

☆ (a) Authorizes AHFC to issue up to \$30,000,000 in senior housing bonds for senior housing projects of which AHFC approves.

☆ (b) Requires Community and Regional Affairs to compile and submit to AHFC for approval lists of senior housing projects which they have determined to be desirable and financially feasible.

☆ (c) The bond proceeds are deposited in the loan fund as determined necessary by AHFC.

☆ (d) Establishes a Senior Housing Bond Account in AHFC. Allows AHFC to pledge funds and security interest assignments in the Bond Account and assets in the Senior Housing Revolving Loan Fund for the payment of the bonds. If necessary, AHFC may also use money in the Bond Account for payment of the bonds.

☆☆Section 2.

(Page 2, Line 9) AS 44.47.585 **Senior Housing Office.**

☆ Establishes a Senior Housing Office in Community and Regional Affairs to coordinate senior housing programs and administer the loan program. This was one of the primary recommendations of the Older Alaskan's Commission in its "Senior Housing Report" released in September, 1989. The Senior Housing Office will provide assistance to senior citizens in need of housing. In addition, it will encourage private sector involvement in senior housing through dialogue with and coordination with potential developers. The Senior Housing Office will be charged with ensuring that residences constructed through the Senior Housing Revolving Loan Program conform to the special needs of senior citizens.

(Page 3, Line 7) Sec. 44.47.587. **Senior Housing Revolving Fund**

☆ (a) Establishes the **Senior Housing Revolving Fund** in Community and Regional Affairs and provides that the proceeds of bonds sold by AHFC will be deposited in the Fund for specific projects only. Provides that AHFC can pledge amounts in the Revolving Loan Account for security on Senior Housing Bonds issued by AHFC. Loans can be made for conventional mortgages, building materials, renovations and improvements of individual or congregate residences, to cooperatives, and for construction of senior housing.

☆ (b) Requires CRA and AHFC to jointly establish guidelines in regulations for determining financial feasibility and the need for projects.

☆ (Page 4, Line 1) Sec. 44.47.589. **Interest Rate.** Specifies the interest rate to be charged to borrowers on the senior housing loans to be the cost of funds plus two percent for construction loans, and the cost of funds plus 1/2 of one percent for permanent loans. The funds generated through this increased interest rate will be used to offset the cost of the senior housing loans program as soon as there has been enough lending activity in the fund to support the office.

☆ (Page 4, Line 7) Sec. 44.47.591. **Conditions on Loans** (a) Requires the Department of Community and Regional Affairs (C&RA) to adopt regulations establishing acceptable security on loans from the Senior Housing Revolving Loan Fund. (b) Requires C&RA to develop regulations intended to reasonably preserve the use of facilities constructed as senior housing with senior housing loan funds for senior citizens.

☆ (Page 4, Line 19) Sec. 44.47.593. **Transfer and Assignment of Certain Assets.** (a) Directs C&RA to transfer repayments of bond principal to AHFC. (b) Directs C&RA to assign to AHFC a security interest in property financed with bond proceeds.

☆ (Page 4, Line 29) Sec. 44.47.595. **Fire Insurance.** Requires loan recipients to purchase and maintain fire insurance.

☆ (Page 5, Line 5) Sec. 44.47.597. **Loan Origination and Servicing.** Allows the Senior Housing Office to enter into loan servicing agreements with private financial institutions or regional native housing authorities.

☆ (Page 5, Line 20) Sec. 44.47.599. **Appraisals.** Allows the Senior Housing Office to have appraisals done on property as necessary.

☆ (Page 5, Line 28) Sec. 44.47.601. **Toll-Free Telephone Number.** Requires the Senior Housing Office to maintain a toll free number.

☆ (Page 6, Line 4) Sec. 44.47.605. **Assistance by Office Personnel.** Allows the Senior Housing Office to establish field offices and contract with appraisers and engineers to carry out the loan program.

☆ (Page 6, Line 19) Sec. 44.47.605. **Cooperatives.** Allows the Senior Housing Office to make loans to cooperatives and requires the office to regulate or restrict the methods of operation by the cooperatives.

☆ (Page 7, Line 4) Sec 44.47.609. **Definitions.** (2) The definition of senior housing is copied from the definition of senior housing in the current Senior Citizen's Housing Development Fund (AS 44.47.620), except that cooperatives are added.

RECOMMENDED CHANGES TO CS SB 150 (SA)

☆ PAGE 1, LINE 13 - Bond cap language is changed from "the corporation may issue *up to \$30,000,000 worth of bonds* to fund senior housing loans..." to "the corporation may issue *bonds in a total amount not exceeding \$30,000,000* to fund senior housing loans..." This language was changed for purposes of clarity.

☆ PAGE 2, LINE 22 - Delete the reference to the Older Alaskans Commission here and add a subsection (b) which requires the Senior Housing Office to consult with the OAC so the housing needs of senior citizens can be met efficiently and effectively. Also added is a specific requirement on page 3 of the proposed CS which amends OAC duties to include giving "assistance, on request, to the senior housing office in the Department of Community and Regional Affairs in administration of the senior housing loan program..." The proposed CS also adds housing to the matters which may be studied by the OAC to accomplish its duties. These changes establish the statutory requirement for ongoing dialogue and cooperation between the two entities.

☆ PAGE 3, LINE 21 - Explicit reference to "loans under AS 44.47.405" (Cooperatives) is deleted here and on page 6 and is placed instead in the definition section. It was not felt that cooperatives should be treated differently than other borrowers.

☆ PAGE 6, LINE 4 - The "Assistance by Office Personnel" Section is changed to "Contracting for Services" in the proposed CS. Instead of listing professionals with which the Senior Housing Office may contract in carrying out its duties, the proposed CS generically states: "the office may contract for services of persons who will assist the office in performing its duties..." Subsection (b) is deleted since office personnel are no longer referred to in this section and the responsibilities of the Senior Housing Office are described in Section 3 of the CS.

☆ PAGE 6, Line 19 - The entire section on Cooperatives is deleted here. Reference to all possible forms of cooperatives in Alaska is added to the definition of "senior housing" in the proposed CS.

☆ PAGE 7, LINE 10 - Explicit reference to all forms of cooperatives is added to the definition of "senior housing" in the proposed CS. With these changes, loans to cooperatives are addressed in the same manner as all other forms of possible housing under SB 150.

SB 487 accomplishes the following:

☆ PAGE 1, LINE 13. **Section 1.** (a) Gives AHFC authority to issue bonds for deposit in the Senior Housing Revolving Fund in Community and Regional Affairs. (b) AHFC provides up to \$10.0 million of their current year earnings to capitalize a Senior Housing Bond Account established in AHFC.

☆ PAGE 1, LINE 18. **Section 2.** Retains within the Senior Housing Revolving Loan Fund all funds received or accrued to the fund for the Fiscal Year beginning July 1, 1990, except for the interest due on the bonds which is appropriated to AHFC in Section 3.

☆ PAGE 1, LINE 27. **Section 3.** The interest due and payable on the bonds issued by AHFC will be transferred from the revolving loan account in C&RA to the bond account in AHFC for Fiscal Year 1991. Note that payments on the bond principal are transferred from the Senior Housing Revolving Loan Account in Section 44.47.593 of the SB 150.

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR -
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

MEMORANDUM

DATE: March 6, 1990

TO: Senator Mike Szymanski, Chair
Senate Community & Regional Affairs Committee

FROM: Senator Jim Duncan

RE: CS SS SB 150 (State Affairs), establishing a senior housing office and loan program in the Department of Community and Regional Affairs; and authorizing the issuance of bonds for senior housing.

CS SB 487 (B&ED), making appropriations to the Alaska Housing Finance Corporation for the senior housing bond account and to the senior housing revolving fund in the Department of Community and Regional Affairs.

Thank you for scheduling CS for SS SB 150 (State Affairs), establishing a senior housing office and revolving loan fund, and CS SB 487 (B&ED) making appropriations to AHFC and the Department of Community and Regional Affairs to establish the Senior Housing Bond Account and Revolving Loan Fund. Working with AHFC, the Department of Community and Regional Affairs, and the Older Alaskan's Commission, I believe we have arrived at a very workable, financially feasible solution for financing and operation of a Senior Housing Loan Program.

I provide a proposed CS to SB 150 to the Community and Regional Affairs Committee which makes technical amendments to the bill which were suggested through our work with AHFC, the Department of Community & Regional Affairs, and the Older Alaskan's Commission since the bill moved out of the State Affairs Committee. Attached to this memo is a list of the changes from the State Affairs CS to the proposed blank CS which is described in the following summary.

Major provisions in CS SS SB 150 () are as follows:

Section 1. (Page 1, line 12) Sec. 18.56.083. **Bonds for Senior Housing.** (a) Authorizes AHFC to issue up to \$30,000,000 in senior housing bonds for senior housing projects of which AHFC approves. (b) Requires Community and Regional Affairs to compile and submit to AHFC for approval lists of senior housing projects which they have determined to be desirable and financially feasible. (c) The bond proceeds are deposited in the loan fund as determined necessary by AHFC. (d) Establishes a Senior Housing Bond Account in AHFC. Allows AHFC to pledge funds and security interest assignments in the Bond Account and assets in the Senior Housing Revolving Loan Fund for the payment of the bonds. If necessary, AHFC may also use money in the Bond Account for payment of the bonds.

Section 2. (Page 2, Line 10) AS 44.21.230(a)(9) **Older Alaskan's Commission.** Requires the OAC to give assistance to the senior housing office. This is to ensure coordination of OAC's senior programs and use of their expertise in the development of senior housing in this state.

Section 3. (Page 3, Line 11) AS 44.21.230(b) **Older Alaskan's Commission.** Adds housing to the issues upon which the OAC may collect facts and statistics, and perform studies.

Section 4. (Page 4, Line 6) Sec. 44.47.585. **Senior Housing Office.** (a) Establishes a Senior Housing Office in Community and Regional Affairs to coordinate senior housing programs and administer the loan program. This was the primary recommendation of the Older Alaskan's Commission in its "Senior Housing Report" released in September, 1989. The Office would provide assistance to senior citizens in need of housing. In addition, it would encourage private sector involvement in senior housing through dialogue with and coordination with potential developers. The Senior Housing Office would be charged with ensuring that residences constructed through the Senior Housing Revolving Loan Program conform to the special needs of senior citizens. (b) The Senior Housing Office is required to consult with the Older Alaskan's Commission so the housing needs of senior citizens can be met efficiently and effectively.

(Page 5, Line 10) Sec. 44.47.587. (a) Establishes the **Senior Housing Revolving Fund** in Community and Regional Affairs and provides that the proceeds of bonds sold by AHFC will be deposited in the Fund for specific projects only. Provides that AHFC can pledge amounts in the Revolving Loan Account for security on Senior Housing Bonds issued by AHFC. Loans can be made for conventional

mortgages, building materials, renovations and improvements of individual or congregate residences, to cooperatives, and for construction of senior housing. **b)** Requires CRA and AHFC to jointly establish guidelines in regulations for determining financial feasibility and the need for projects.

(Page 6, Line 3) **Sec. 44.47.589. Interest Rate.** Specifies the interest rate to be charged to borrowers on the senior housing loans to be the cost of funds plus two percent for construction loans, and the cost of funds plus 1/2 of one percent for permanent loans. The funds generated through this increased interest rate will be used to offset the cost of the senior housing loans program as soon as there has been enough lending activity in the fund to support the office.

(Page 6, Line 9) **Sec. 44.47.591. Conditions on Loans (a)** Requires the Department of Community and Regional Affairs (C&RA) to adopt regulations establishing acceptable security on loans from the Senior Housing Revolving Loan Fund. **(b)** Requires C&RA to develop regulations intended to reasonably preserve the use of facilities constructed as senior housing with senior housing loan funds for senior citizens.

(Page 6, Line 21) **Sec. 44.47.593. Transfer and Assignment of Certain Assets.** **(a)** Directs C&RA to transfer repayments of bond principal to AHFC. **(b)** Directs C&RA to assign to AHFC a security interest in property financed with bond proceeds.

(Page 7, Line 2) **Sec. 44.47.595. Fire Insurance.** Requires loan recipients to purchase and maintain fire insurance.

(Page 7, Line 7) **Sec. 44.47.597. Loan Origination and Servicing.** Allows the Senior Housing Office to enter into loan servicing agreements with private financial institutions or regional native housing authorities.

(Page 7, Line 22) **Sec. 44.47.599. Appraisals.** Allows the Senior Housing Office to have appraisals done on property as necessary.

(Page 8, Line 1) **Sec. 44.47.601. Toll-Free Telephone Number.** Requires the Senior Housing Office to maintain a toll free number.

(Page 8, Line 6) **Sec. 44.47.605. Contracting for Services.** Allows the Senior Housing Office to contract for services of professional appraisers, engineers, architects, planners, etc., as necessary to carry out the loan program.

Senator Mike Szymanski

March 6, 1990

Page 4

(Page 8, Line 10) Sec 44.47.609. **Definitions.** (2) The definition of senior housing is copied from the definition of senior housing in the current Senior Citizen's Housing Development Fund (AS 44.47.620), except the different forms a cooperative may take are listed beginning on line 16 with "residential horizontal property regimes", and running through "residential condominiums organized under AS 34.08" on line 19.

CHANGES FROM CS SS SB 150(STATE AFFAIRS) TO PROPOSED CS.

CSSS SB 150 (State Affairs), establishing a senior housing office and loan program in the Department of Community and Regional Affairs; and authorizing the issuance of bonds for senior housing.

PAGE 1 LINE 13 - Bond cap language is changed from "the corporation may issue *up to \$30,000,000 worth of bonds* to fund senior housing loans..." to "the corporation may issue *bonds in a total amount not exceeding \$30,000,000* to fund senior housing loans..." This language was changed for purposes of clarity.

PAGE 2, LINE 22 - Specific reference to the Older Alaskans Commission is deleted here and added on page 3 of the proposed CS which amends OAC duties to include giving "assistance, on request, to the senior housing office in the Department of Community and Regional Affairs in administration of the senior housing loan program..." The proposed CS also adds housing to the matters which may be studied by the OAC to accomplish its duties.

PAGE 3, after LINE 6 - The proposed CS on page 5, line 5 adds the following section to the organization of the Senior Housing Office: "(b) In order to avoid duplication of efforts and to benefit from the commission's expertise, the office shall consult with the Older Alaskan's Commission in the performance of the office's duties under AS 44.47.585 - 44.47.609 so that the housing needs of senior citizens can be met most efficiently and effectively." This addition, along with the requirement that the Senior Housing Office work with the OAC, establishes the statutory requirement for ongoing dialogue and cooperation between the two entities.

PAGE 3, LINE 21 - Explicit reference to "loans under AS 44.47.405" (Cooperatives) is deleted here and on page 6 and is placed instead in the definition section.

PAGE 6, LINE 4 - "Assistance by Office Personnel" Section is changed to "Contracting for Services" in the proposed CS. Instead of listing professionals with which the Senior Housing Office can contract in carrying out its duties, the proposed CS generically states "the office may contract for services of persons who will assist the office in performing its duties..." Subsection (b) is deleted since office personnel are no longer referred to in the section.

PAGE 6, Line 19 - The entire section on Cooperatives is deleted here. Reference to all possible forms of cooperatives in Alaska is added in the definition of "senior housing" in the proposed CS.

PAGE 7, LINE 10 - Explicit reference to all forms of cooperatives is added to the definition of "senior housing" in the proposed CS. In this manner, loans to cooperatives are addressed in conjunction in the same manner as all other forms of possible housing under SB 150.