

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6678 SENATE STATE AFFAIRS

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12/9/55

1 is held in trust by the United States, or over which
2 the United States has complete jurisdiction. Immunity
3 to taxation does not apply to property of (individual)
4 natives when held in fee without restrictions on aliena-
5 tions.

Taxation of 6 Section 6. Persons holding leaseholds, contracts, or
interests 7 other interests in land held by the United States shall
in U. S. 8 be taxable to the extent of their respective interests.
property. 9 Section 7. No tax shall be levied or appropriation of
Taxation 10 public money or property made, nor shall the public credit
for public 11 be used except for a public purpose.

purpose 12 Section 8. Unless state participation in Federal programs
13 will thereby be denied, all tax revenues shall be deposi-
Earmarking 14 ted in a general fund. This provision shall not prohibit
Restricted 15 the continuance of any special fund for special purposes
16 upon the date of ratification of this Constitution by the
17 people of Alaska.

Debt 18 Section 9. No debt shall be contracted by or in behalf of
19 the state unless such debt shall be authorized by law for
20 a single capital improvement distinctly specified therein;
21 and no law shall, except for the purpose of repelling in-
22 vasion, supressing insurrection, defending the state in
23 war, meeting natural catastrophes, or redeeming the in-
24 debtedness of the state outstanding at the time this con-
25 stitution becomes effective, take effect until it shall

1 have been submitted to the qualified voters and have
2 received a favorable majority of all votes cast upon
3 such question; except that the state may by law borrow
4 money to meet appropriations for any fiscal year in anti-
5 cipation of the collection of the revenues of that year,
6 but all debts so contracted shall be paid within one
7 year; and except that the state may create in any fiscal
8 year liabilities of the state, which together with any
9 previous liabilities shall not exceed at any time _____
10 percent of the total amount appropriated by the last
11 general appropriation law, provided that such liabilities
12 shall be discharged within five years.

13 The provisions of this section shall not apply to in-
14 debtedness incurred under revenue bond statutes by a
15 public enterprise of the state or political subdivision,
16 or by a public corporation, when the only security for
17 such indebtedness is the revenues of such enterprise or
18 public corporation, or to indebtedness incurred under
19 special improvement statutes when the only security for
20 such indebtedness is the properties benefited or im-
21 proved or the assessments thereon.

Governor's
Budget

22 Section 10. Within such time prior to the opening of
23 each regular session as may be prescribed by law, the
24 governor shall submit to the legislature a budget setting
25 forth a complete plan of proposed expenditures and anti-

Constitutional Convention
Committee Proposal/9
December 16, 1955

ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Article on Finance and Taxation

(Sec. 1 Taxing Power)

The power to tax is never to be surrendered, but under terms that may be established by the legislature, it may be suspended or temporarily contracted away. This could include industrial incentives, for example.

(Sec. 2 Taxation of Non-residents)

This section and its wording is required by the latest proposed enabling act, H.R. 2535.

(Sec. 3 Uniform Standards for Assessment)

The legislature is authorized to set up, notwithstanding home rule or any system for the selection of assessors, uniform standards of assessment.

(Sec. 4 Exemptions from Taxation)

All property owned by the state and its subdivisions is exempt from taxation unless the legislature directs otherwise. An exception from tax immunity might be appropriate if a government engaged in what is normally a private business, such as operating a ski resort, a moving picture theater, or a swimming pool.

The second sentence of this section is intended to exempt from taxation that part of the property of religious, charitable, cemetery, or educational organizations which is actually used for these purposes, as the legislature may direct. But their property used for other

purposes would be taxable, for example, an office building owned by a college as part of its endowment.

The legislature is authorized to make further tax exemptions to encourage, among other purposes, new industry, and all valid current exemptions are continued.

(Sec. 5 Taxation of United States Property)

This section is required by the latest proposed enabling act, H.R. 2535. Even if it were not included, the state could not, under a long line of U.S. Supreme Court cases, tax federal property.

(Sec. 6 Taxation of Private Interests in U.S. Property)

Taxation is permitted of private interests in land or property owned or held by the United States.

(Sec. 7 Public Purpose Clause)

Public purpose clauses are common to most constitutions, and are included to prevent appropriation of public funds for private purposes.

(Sec. 8 Earmarking of Revenues Restricted)

The allocation of certain revenues to special purposes is prohibited, with two exceptions: (1) if required in order to participate in a federal program or (2) if the earmarking is in existence at the time of ratification of the constitution. Even those persons or interests who seek the dedication of revenues for their own projects will admit that the earmarking of taxes or fees for other interests is a fiscal evil. But if allocation is permitted for one interest the denial of it to another is difficult, and the more special funds are set up the more difficult it becomes to deny other requests until the point is reached where neither the governor nor the legislature has any real control over the finances of the state. In one Rocky Mountain state the legislature

is free to appropriate only 17 per cent of the tax collections; the rest are dedicated. In Alaska at present, 27% of territorial funds are earmarked, primarily for school construction and roads.

(Sec. 9 Debt Contraction)

This section forbids state or local debt except in special emergencies or for the purpose of making capital improvements, the proposals for which must be approved by the voters.

(Sec. 10 Tax Anticipation Notes)

This section permits the state to borrow in anticipation of taxes in any fiscal year money to meet appropriations.

(Sec. 11 Refunding and Revenue Debt)

In a period when interest rates fall, a government may save large amounts of money if it can pay off its old high-rate obligations with new funds borrowed at lower rates. This process, here permitted, is called refunding, and the restrictions on the contraction of original debt are unnecessary; they are here made inapplicable. When the state or its subdivisions can contract debts for special purposes (for example, to build a toll bridge) without pledging more than the improvement or the revenues from the enterprise, such debt is permitted without referendum. This provision is sometimes necessary if a state is to take advantage of federal loans at particularly favorable rates.

(Sec. 12 Budget)

This section requires the governor to submit a complete budget and an appropriation bill to authorize the expenditures he proposes. This process is now standard.

(Sec. 13 Expenditures)

The requirement of appropriation before expenditure is also standard. The second sentence requires the recapture of unexpended balances.

(Sec. 14 Auditor)

The auditor is commonly regarded as a legislative officer, and his appointment is here vested in the legislature.

(Sec. 15 Debts and Assets)

This section provides for the state to take over the debts to and of the Territory of Alaska, as well as its assets.

Constitutional Convention of Alaska

COMMITTEE PROPOSAL NO. 9

Introduced by Committee on Finance and Taxation

ARTICLE ON FINANCE AND TAXATION

RESOLVED, that the following be agreed upon as part
of the Alaska State Constitution

Taxing Power 1 Section 1. The power of taxation shall never be
2 surrendered; and shall never be suspended or con-
3 tracted away, except as provided herein.

Taxation of 4 Section 2. The lands and other property belonging
non-residents 5 to citizens of the United States residing without the
6 State shall never be taxed at a higher rate than the
7 lands and other property belonging to the residents
8 of the State.

Assessment of 9 Section 3. The legislature shall establish the
Property 10 standards for assessment of all property assessed
11 locally or by the State.

Exemptions 12 Section 4. The real and personal property of the
from 13 State and of its political subdivisions shall be ex-
Taxation 14 empt from taxation under such conditions and with
15 such exceptions as the legislature may direct. All
16 or any portion of property used exclusively for

12/16/55

1 non-profit religious, charitable, cemetery, or educa-
2 tional purposes as defined by law, is exempt from
3 taxation.

4 Other exemptions of like or different kind may be
5 granted by general law; and until otherwise provided
6 by law, all exemptions from taxation validly granted
7 are retained.

Taxation of 8 Section 5. No tax shall be imposed upon any lands
U.S. Property 9 or other property owned or acquired by the United
Prohibited 10 States, except as allowed by Federal law. Immunity to
11 taxation extends to all property owned by natives which
12 is held in trust by the United States, or over which
13 the United States has complete jurisdiction. Immunity
14 to taxation does not apply to property of individual
15 natives when held in fee without restrictions on
16 alienation.

Taxation of 17 Section 6. Private leaseholds, contracts, or other
Interests in 18 interests in land or property owned or held by the
U.S. property 19 United States shall be taxable to the extent of the
20 interests.

Taxation for 21 Section 7. No tax shall be levied or appropriation
Public 22 of public money made or public property transferred,
Purpose 23 nor shall the public credit be used, except for a
24 public purpose.

Earmarking 25 Section 8. All revenues shall be deposited in the
Restricted 26 State treasury without allocation for special purposes,

1 except where state participation in Federal programs
2 will thereby be denied. This provision shall not pro-
3 hibit the continuance of any allocation for special
4 purposes existing upon the date of ratification of this
5 Constitution by the people of Alaska.

Debt 6 Section 9. No debt shall be contracted by or in
Contraction 7 behalf of the State, or any political subdivision
Restricted 8 thereof, unless the debt shall be authorized by law
 9 for capital improvements specified therein and be
10 10 approved by a majority of the qualified voters of the
11 11 State or of the respective political subdivision voting
12 12 on the question, provided that the State may by law
13 13 contract debt for the purpose of repelling invasion,
14 14 suppressing insurrection, defending the State in war,
15 15 meeting national catastrophies, or redeeming outstand-
16 16 ing indebtedness of the State at the time this
17 17 Constitution becomes effective.

Tax 18 Section 10. The State may by law borrow money to
Anticipation 19 meet appropriations for any fiscal year in anticipation
Notes 20 of the collection of the revenues of that year, but all
 21 debt so contracted shall be paid within one year.

Revenue Debt 22 Section 11. The restrictions in this Constitution
 23 on the contraction of debt do not apply to refunding
 24 indebtedness of the State or any political subdivision
 25 thereof; to indebtedness incurred under revenue bond

1 statutes by a public enterprise of the state or politi-
2 cal subdivision, or by a public corporation, when the
3 only security for such indebtedness is the revenues of
4 the enterprise or public corporation; or to indebted-
5 ness incurred under special improvement statutes when
6 the only security for such indebtedness is the pro-
7 perties benefited or improved or the assessments
8 thereon.

Governor's
Budget

9 Section 12. At such time as may be prescribed by
10 law, the governor shall submit to the legislature a
11 budget setting forth a complete plan of proposed ex-
12 penditures and anticipated income of all departments,
13 offices and agencies of the State for the next fiscal
14 year. At the time of submitting the budget to the
15 legislature, the governor shall also submit a general
16 appropriation bill to authorize all proposed expendi-
17 tures set forth in the budget. At the same time he
18 shall submit to the legislature a bill or bills cover-
19 ing all recommendations in the budget for new or
20 additional revenues.

Expenditure
of Money

21 Section 13. No money shall be withdrawn from the
22 treasury except in accordance with appropriations
23 made by law, nor shall any obligation for the payment
24 of money be incurred except as authorized by law. All
25 appropriated funds unexpended at the end of a period of

1 . time specified by law shall be returned to the state
2 treasury.

legislative
post-audit

3 Section 14. The legislature shall appoint an audi-
4 tor who is a certified public accountant and who shall
5 serve during its pleasure. It is the duty of the
6 auditor to conduct such post-audits as may be pre-
7 scribed by law and to report to the governor and the
8 legislature.

territorial
debt Assumed

9 Section 15. The debts and liabilities of the Terri-
10 tory of Alaska shall be assumed and paid by the State
11 of Alaska, and debts owed to the Territory of Alaska
12 shall be collected by the State. Assets of the
13 Territory of Alaska shall become assets of the State.

1 cipated income of all departments, offices and agencies
2 of the state for the next ensuing year. At the time of
3 submitting the budget to the legislature, the governor
4 shall also submit a general appropriation bill to auth-
5 orize all proposed expenditures set forth in the budget.
6 At the same time he shall submit to the legislature a
7 bill or bills covering all recommendations in the budget
8 for new or additional revenues.

Legislation

Post-audit

9 Section 11. The legislature shall appoint an auditor,
10 who shall be a certified public accountant and who shall
11 serve during its pleasure. It shall be the duty of the
12 auditor to conduct post-audits in the manner provided by
13 the legislature and to report to the governor and the
14 legislature.

Territorial

debt assumed

15 Section 12. The debts and liabilities of the Territory
16 of Alaska shall be assumed and paid by the State of
17 Alaska and debts owed to the Territory of Alaska shall
18 be collected by the State.

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PROPOSAL NO. 9

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Alaska State Constitution

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Com. 400 (Prop. 1/1)
Date

1/16/56

Journal
Constitutional Convention

Committee Proposal No. 12 was read the second time. Mr. V. Rivers explained the proposal and discussion followed.

Mr. V. Rivers announced a meeting of the Committee on the Executive Branch on recess.

Mr. Sundborg announced a meeting of the Committee on Style and Drafting during the recess. Mr. Sundborg also called attention to the new rule regarding the discussing of amendments to proposals with the committee during a recess.

The President declared the Convention at recess for the usual fifteen-minute break.

AFTER RECESS

Mr. V. Rivers suggested that Committee Proposal No. 12 be held in abeyance until after the basic articles had been acted on, and called attention to a proposed amendment regarding the University of Alaska.

The President asked that all those in favor of deferring action on Committee Proposal No. 12 until such time as all the substantive proposals have been considered do so by a show of hands. A majority of the delegates favored this action, and the President ordered Committee Proposal No. 12 referred back to the Committee on the Executive Branch until such time as the Committee deemed it proper to bring it out.

Mr. Nerland asked permission for the members of the Committee on Finance to sit together. Permission was granted.

Committee Proposal No. 9 was read the second time.

Mr. Nerland asked unanimous consent that the following committee amendments be accepted and incorporated as part of the committee proposal:

1. Page 2, Section 5: Strike Section 5 and renumber subsequent Sections.
2. Page 2, Section 8, line 25: After the word "all", insert the word "public."
3. Page 3, Section 9, line 15: Strike the word "national" and insert in lieu thereof the word "natural."
4. Page 3, Section 10, line 21: Strike "within one year" and insert in lieu thereof "prior to the end of the next fiscal year."
5. Page 4, Section 13, line 24: Strike the last sentence and insert in lieu thereof, "All appropriations outstanding at the end of a period of time specified by law shall be void."

Mr. R. Rivers objected and asked to discuss the amendments. Mr. V. Fischer rose to a point of order that since the amendments had been approved by the Committee they should be accepted now as part of the report and amendments by delegates could be presented later. The President stated the point of order was well taken.

Mr. V. Rivers asked a question regarding the amendment. Miss Awes rose to a point of order that questions were not in order at this time. The President stated Miss Awes' point of order was well taken.

Mr. Nerland moved that the amendments offered by the committee become a part of the original committee report relative to Committee Proposal No. 9. Mr. Johnson seconded. On voice vote, the amendments were adopted.

Mr. Nerland discussed the Committee's thinking on the Proposal. A question and answer period followed.

Miss Awes moved and asked unanimous consent that the Convention recess until 7 p.m. to give the Committee an opportunity to meet with delegates and discuss proposed amendments.

The following committee announcements were made: Style and Drafting on recess; Ordinances on recess; Finance on recess.

There being no objection to the unanimous consent request, the Convention recessed until 7 p.m.

AFTER RECESS

Further discussion of Committee Proposal No. 9 continued.

Mr. Nerland moved and asked unanimous consent for the adoption of the following Committee amendment to Section 3: line 10, strike "assessment" and insert "appraisal". There being no objection, it was so ordered.

Mr. Johnson moved the adoption of the following amendment to Section 3: line 9, page 1, strike the word "the" at the end of the line and insert in lieu thereof the word "uniform". Mr. Knight seconded. After discussion by Mr. Hurley, Mr. Johnson, Miss Awes, Mr. R. Rivers, Mr. White, Mr. Hinckel and Mr. Metcalf the question was called. On voice vote the amendment failed.

Mr. V. Fischer moved the adoption of the following amendment to Section 3 and asked unanimous consent: Line 9, strike "establish the" and substitute "provide for the establishment of". Mr. McCutcheon objected. Mr. R. Rivers seconded. After discussion by Mr. Fischer, Mr. White and Mr. McCutcheon, the question was called. On voice vote the amendment failed.

Mr. Hellenthal moved the adoption of the following amendment to

Section 4: page 2, line 1, strike "cemetery". Mr. Knight seconded. After discussion by Mr. Hellenenthal, Mr. Harston, Mr. Harris, Mr. White, Mr. V. Rivers, Mr. McLaughlin, Mr. Barr and Mr. Armstrong, Mr. Hellenenthal closed the argument and the question was called. On voice vote the amendment failed.

Mr. Nerland asked unanimous consent for the adoption of the following committee amendment to Section 5: line 19, after word "States" insert a comma and add "the State and its political subdivision,". There being no objection, the amendment was ordered adopted.

Mr. Barr moved to strike "U. S." in the title to Section 5 and insert in lieu thereof the word "government". Mr. V. Rivers suggested that the word "public" be used in place of "government".

The President declared a short recess.

AFTER RECESS

Mr. Hurley rose to a point of order to state that he didn't believe the titles in the articles should be amended by delegates but that Style and Drafting should make appropriate changes.

The President stated that the point of order was well taken.

Mr. Barr withdrew his amendment to the title of Section 5.

Mr. Nerland asked that action on Section 7 be postponed until the Committee has its amendments ready. There being no objection, it was so ordered.

Mr. V. Fischer moved the adoption of the following amendment to Section 8: page 3, lines 7 and 8, strike "or any political subdivision thereof" and line 11, strike "or of the respective political subdivision". Mr. Rosswog seconded. After discussion by Mr. V. Fischer, Mr. McNees, Mr. Nerland, Mr. Hinckel, Miss Awes, Mr. Rosswog, Mr. Barr, Mr. Coghill, Mr. Hellenenthal, Mr. V. Rivers, Mr. McNealy, Mr. Riley, Mr. White, Mr. Lee, Mr. Davis, and Mr. Buckalew, Mr. V. Fischer closed the argument. The question was called. Mr. V. Rivers requested a roll call. The roll was called with the following result:

Yeas	17	Awes, Buckalew, Cross, Emberg, V. Fischer, Harris, Hinckel, Hurly, Kiicher, Lee, McNealy, Nordale, Riley, R. Rivers, Rosswog, Smith, Mr. President
Noes	33	Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Hellenenthal, Hermann, Hilscher, Johnson, King, Knight, Laws, Londborg, McCutcheon, McLaughlin, McNees, Harston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Sweeney, Walsh, White, Wien.
Absent	5	Robertson, Stewart, Sundborg, Taylor, VanderLeest.

and so the amendment failed.

Mr. Johnson moved the adoption of the following amendment to Section 3: Page 3, line 10, after the word "voters" add the following "whose names appear on the current tax rolls." Mr. McNealy seconded. After discussion by Mr. Johnson, Mr. Gray and Mr. Nerland, Mr. Davis read his proposed amendment for information purposes.

After further discussion by Mrs. Nordale and Mr. R. Rivers, Mr. Johnson asked unanimous consent to withdraw his amendment. There being no objection, it was so ordered.

Mr. R. Rivers asked that Section 3 be held back by the Committee until it could be clarified.

Mr. Kilcher moved the adoption of the following amendment to Section 3: line 10 after word "majority" insert: "set by law" and strike "voters" and substitute "votes cast".

After discussion, Mr. Kilcher asked unanimous consent to withdraw his amendment and that it be referred to the Committee.

Mr. V. Rivers served notice of reconsideration of his vote on Mr. V. Fischer's amendment to Section 3.

Further action on Section 3 was deferred until the Committee gave it further consideration.

Mr. Nerland asked unanimous consent for the adoption of the following amendment to Section 9: line 12 after "state" add "and its political subdivisions". There being no objection, it was so ordered.

Mr. McLaughlin moved that the words "by law" on line 13, page 3 be stricken. Mr. Metcalf objected. Mr. McLaughlin withdrew his amendment.

Mr. Buckalew stated he had an amendment to Section 9, but would hold it until the next Convention day.

Mr. Nerland asked unanimous consent for the adoption of the following committee amendment to Section 10: page 4, line 4, after the "and" following "corporation" strike the rest of the section and substitute "or to special assessments". There being no objection, it was so ordered.

Mr. Doogan moved the adoption of the following amendment to Section 13: line 7 strike "governor and the". Mr. McCutcheon seconded. After discussion by Mr. Doogan, Mr. Nolan, Mr. McCutcheon, Mr. R. Rivers and Mr. Barr, the question was called. On voice vote, the amendment failed.

The President declared a short recess.

AFTER RECESS

The President welcomed the Fairbanks Chapter of the American Association of University Women who were present in the gallery.

Mr. Smith asked unanimous consent that the Convention revert to the introduction of Committee Proposals. There being no objection, it was so ordered.

Committee Proposal No. 8a by the Committee on Resources, entitled STATE LANDS AND NATURAL RESOURCES, was introduced, read the first time and referred to the Rules Committee for assignment to the calendar.

Mr. R. Rivers moved the adoption of the following amendment to Section 12: page 4, line 25, insert "unobligated" before the word "appropriations". Mrs. Nordale seconded. After discussion by Mr. R. Rivers, Mr. Barr, Mr. McNealy, Mr. Hellenthal and Mr. McCutcheon, the question was called. Mr. McNees requested a roll call before the voice vote was announced. After discussion Mr. McNees withdrew his request and the President announced that on voice vote the amendment had been adopted.

Mr. Kilcher moved and asked unanimous consent that the words "governor and legislature" on lines 7 and 8 of Section 13, page 5, be transposed. There being no objection, it was so ordered.

Mr. McNealy rose to a point of inquiry regarding Section 14, and stated he believed it should be in the miscellaneous provisions of the constitution.

Mr. Nerland stated he had no objection to where it appeared in the constitution.

There being no further amendments to Committee Proposal No. 9 at this time, the President entertained a motion for adjournment.

Mr. Johnson asked unanimous consent that the Convention adjourn until 9 a.m. Tuesday. There being no objection, the Convention adjourned at 9:25 p.m. until 9 a.m. Tuesday.

THOMAS B. STEWART
Secretary

Attested:

WILLIAM A. EGAN
President

1/16/56
Convention
Proceedings.

or the amount. Section 4, the thought was to exempt the state in its political subdivisions from taxations under such provisions and such exceptions as the legislature may direct. There are certain conditions under which these properties might be subject to taxation, and the more or less standard phrase of all or any portion probably used exclusively for nonprofit, charitable, cemetery, or educational purposes as defined by law is exempt from taxation and this is the provision that allows for some exemption or inducement to industries or similar things. Section 5 has been stricken as explained. There are certain interests in leaseholds, contracts and other interests in United States lands that are subject to taxation, and Section 6 provides for such instances. Section 7 is to take care of the fact that no public monies, public property, or public credit should be used except for a public purpose. Section 8, "all public revenues shall be deposited in the state treasury without allocation for special purposes, except where state participation in federal programs will thereby be denied." There are some federal participation programs which do require specific things that might conflict with a total prohibition on this subject. You will notice also that we have provided that any funds, which are allocated at the time this constitution is approved, do not come under this provision; as most of you probably know, these particular provisions now are for the tobacco fund for schools and also highway and, I believe, some airports are earmarked. Section 9 is one regarding the contracting of bonded indebtedness, and it was the opinion of the Committee that this should be allowed by law on capital improvements only and should in each case be approved by a majority of the qualified voters of the state in the respective political subdivision to which the question refers, eliminating the exceptions -- in case of repelling invasion, repressing insurrection or defending the state in war, any natural catastrophe, or redeeming any outstanding indebtedness at the time the constitution becomes effective. Our thinking on this particular case was the result of a good deal of consideration. There was some thought of leaving it entirely to the legislature, perhaps with a two-thirds or three-quarters vote, but it was finally decided by the Committee that a referendum be called for and that in each case where the state or political subdivision desire to bond themselves, that the approval by the qualified voters be obtained. I would like to diverge just a minute, along that line; Delegate Ralph Rivers, early in the Convention, gave me some correspondence he had had with a firm of bond attorneys in New York, Wood, King, and Dawson, who had done some work on bond issues for the City of Fairbanks, and, I believe, for other cities in the Territory, and they very kindly offered to make any comments and offer any assistance or suggestions that they were able to from their past experience and all would be done without any charge. As a result, the Committee sent our completed proposal to them before the recess and we have had a reply from them which reads as follows, in part: "We received a copy of the report of the Committee on Finance and Taxation

the Style and Drafting Committee.

PRESIDENT EGAN: If there is no objection, it is so ordered, and the proposed amendment has been withdrawn. Are there amendments to the new Section 6? Mr. Smith.

SMITH: Mr. President, once again I don't have an amendment, and I ask the question merely to get the Committee thinking into the record. Was it the intent of the Committee here to prohibit the sale of public property for other than public purposes? I see that you have here: "No tax shall be levied or appropriation of public money made or public property transferred, except for a public purpose." And, of course, in the resources article we make it possible to transfer property from the state public domain to private individuals. I simply wanted to either get this before Style and Drafting or get the Committee thinking on the record.

NERLAND: Mr. Smith, the Committee took into consideration Section 9 of resources, and it was the feeling of the Committee that the transfer of public property, when money was being received for it, would constitute a public purpose. It was not the intent of this Committee to interfere with the operation of your Section 9 in resources.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I'd like to ask a question. Mr. Nerland, the same answer would apply to surplus property which the state is putting up for sale, would it not?

NERLAND: I would say it would, Mr. Rivers.

PRESIDENT EGAN: Are there amendments to Section 6? Are there amendments to the new Section 7? Mr. Nerland.

NERLAND: Mr. President, the Committee would request that further consideration of Section 7 be temporarily postponed until we have our proposed changes ready for it.

PRESIDENT EGAN: If there is no objection, the Convention will adhere to the Committee's request and proceed to other sections. Are there amendments to the new Section 8? Mr. Fischer.

V. FISCHER: I have an amendment, Mr. President.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment to Section 8.

CHIEF CLERK: You mean Section 8 instead of Section 9?

PRESIDENT EGAN: That's right. It's Section 8 now.

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438

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 438

SPONSOR Coghill

BILL TITLE Fire Protection

DATE REFERRED

HEARING SCHEDULED 3.26.90

FISCAL NOTE PREPARED ✓✓

SPONSOR CONTACTED ✓

INTERESTED PARTIES CONTACTED

OTHER

SENATE COMMITTEE REPORT

DATE: 3/7/90

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

State Affairs

Committee considered

SB 438

"An Act relating to the provision of fire protection services by a municipality outside its boundaries."

and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____
DPS 2-20-90
D.C.R.A. 2-26-90

Governor's bill w/fiscal note

SIGNING DO PASS:

Jan Fails

Tom Kelly

OTHER RECOMMENDATIONS:

Fin def (No Rec)

[Signature]

Chair: Signature and Recommendation

TELECONFERENCE; YOU NEED TO ANNOUNCE LIMITED TESTIMONY TODAY DUE TO THE LARGE NUMBER OF BILLS. (Warning. . Anchorage is a site, which means Charles McKee, which is not a pleasant thought given the Burma Bill)

*Due to rescheduling this bill, we will not have the public participation we had set up for Friday, March 23 when we had 15 teleconference sites available with small community representatives on line.

TO TESTIFY;

Senator Coghill

NOTES;

1. You should be aware that I have been able to make very few contacts concerning this bill. I notified the Mat-Su Borough, City of Wasilla, City of Palmer, Petersburg. The unincorporated areas do not have "officials" per se and they are the ones impacted.

2. Senator Coghill states this bill is at the request of the communities of Hoonah and Nenana.

3. The positive side of this bill is that it legally allows firefighters to do what many are already doing, responding to emergency situations regardless of "where the county line is". In speaking with several rank and file firefighters, they hope this bill will pass as it is very difficult for people trained to save lives and property to ignore a life threatening situation.

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

DATE: March 23, 1990

TO: Senator Pat Pourchot, Chair
Senate State Affairs Committee

FROM: Senator Jack Coghill

SUBJECT: Senate Bill 438 - Sponsor Statement

BILL SUMMARY:

Senate Bill 438 "An Act relating to the provision of fire protection services by a municipality outside its boundaries" is a piece of legislation which would amend AS 29.35.020 to add "fire protection services" to the list of services and facilities that a municipality can provide outside its boundaries.

FISCAL IMPACT:

Zero fiscal note from the Department of Public Safety, Division of Fire Prevention.

Zero fiscal note from the Department of Community & Regional Affairs, Division of Municipal & Regional Assistance.

ABOUT THE BILL:

SB 438 would give municipalities the authority to extend their fire protection services outside the city limits, and the right to regulate those services. Currently, there is no law which allows this.

This provision is especially important in small rural cities which presently may be held liable when the fire department responds to a call outside the city boundaries and leaves the city and the taxpayers unprotected.

Alaska
MUNICIPAL
League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

February 23, 1990

FEB 26 1990

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

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 438 - Relating to provision of fire protection services by a
municipality outside its boundaries

SB 438 would add fire services to the list of facilities and services municipalities may provide outside their boundaries. It also clarifies that municipalities have the authority to regulate the use and operation of facilities and services provided to the extent that the jurisdiction in which they are located does not regulate them.

Under present law, municipalities do not have the specific authority to provide fire services outside their boundaries, which means that fire departments must justify each decision to operate outside their boundaries on the basis of life safety issues. A fire department may want to provide protection to, for instance, a residence just outside municipal boundaries to protect property within the boundaries, but questions of liability coverage as well as an unwillingness to expose the department to public criticism about operating outside the taxing district may deter such a decision.

Giving fire departments authority to provide fire services outside their boundaries would insure that liability and workers compensation insurance would cover all job-related actions of firefighters. It would also extend fire fighters' statutory immunity for job-related actions to actions outside municipal limits.

The Alaska Municipal League supports this legislation as providing greater protection for municipalities, for municipal fire fighters, including volunteers, and for the general public.

cc: Senator Jack Coghill

CSS/LEG:SB398

BILL NO:

SB 438

DATE:

February 20, 1990

TITLE:

An act relating to the provision of fire protection services by a municipality outside its boundaries.

CONTACT:

Gordon Brunton
465-4331

DEPARTMENT OF
PUBLIC SAFETY

This bill would authorize a municipality to provide fire protection services outside its boundaries.

The bill amends AS 29.35.020(a), adding "fire protection services" to other facilities and services currently authorized, such as parks, cemeteries, emergency medical services, sewage disposal, airports, etc. The authority to provide fire protection, while permissive, will provide statutory authority for the extraterritorial service.

Unincorporated areas outside municipalities, especially in rural areas, may benefit by having fire protection not currently available.

The Department of Public Safety supports passage of SB 438.

Arthur English

for Arthur English
Commissioner

RECEIVED
FEB 21 1990
DEPARTMENT OF PUBLIC SAFETY

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An act relating to fire protection BRU: Fire Prevention
by a municipality outside its boundaries.
 Sponsor: Senator Coghill Component: Fire Prevention
 Requestor: Senate C & R A Operations

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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.

Prepared by: Gordon E. Brunton *GBS*
 Division: Fire Prevention

Phone: 465-4331
 Date: 2/15/90

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

Date: 2-20-90
 Page 1 of 1

172
2/15/90

STATE OF ALASKA

STEVE COWPER, GOVERNOR

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 26, 1990

POSITION PAPER

RE: Senate Bill 438

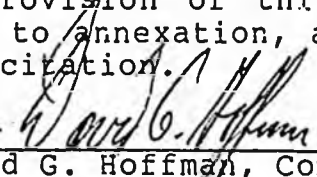
SPONSOR: Senator Coghill

Program Effects of the Bill

The bill amends AS 29.35.020(a) by adding language which would authorize municipalities to exercise the power of fire protection outside their boundaries. Existing AS 29.35.020(a) authorizes municipalities to provide the following services outside their boundaries: parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities.

Comments

Extraterritorial powers have been added to AS 29.35.020 incrementally as needed or requested by municipal governments. This bill to permit fire protection powers appears to fit within this tradition and would clear up existing ambiguities as to the power of municipalities to exercise this service on an extraterritorial basis. The provision of this service is not expected to act as a deterrent to annexation, any more than the other powers listed under this citation.



David G. Hoffman, Commissioner



CITY OF PALMER



231 W EVERGREEN AVE
PALMER, ALASKA 99645



Phone (907) 745-3271

A HOME BLUE CITY

February 22, 1990

The Honorable Jack Coghill
Senator
State of Alaska
Box V
Juneau, Alaska 99811

RE: Senate Bill 438
Fire Protection Service Outside Municipalities

Dear Senator Coghill,

I have read Senate Bill 438 which has been proposed by you and Senator Fischer and fully support it.

However, it could go one step further. In the Matanuska-Susitna Borough, Fire Service Areas have been established and one is the Grater Palmer Fire Service Area. The City of Palmer has its own fire department and contracts with the Matanuska-Susitna Borough to provide fire service to the areas which are a part of the Greater Palmer Fire Service Area.

The majority of the residents as well as the Fire Service Area supervisors would like to be a part of the City of Palmer Fire Department rather than under the Matanuska-Susitna Borough auspices. There are several reasons for this desire, but most importantly are the joint funding and managerial operation of the department.

In expanding your proposed Senate Bill 438 to incorporate the ability of a Fire Service Area to petition a municipality for fire protection services, this would alleviate a problem such as ours as well as other fire service areas throughout the State.

Letter from City of Palmer 2/22/90
A GROWING FRONTIER IN THE HEART OF THE MATANUSKA VALLEY

The Honorable Jack Coghili
February 22, 1990

If you feel an amendment to your bill would be in order and need additional information, you may contact either Chief Dan Contini or myself regarding this issue.

Should you have any questions, please feel free to contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Fire Chief Dan Contini
Representative Curt Menard
Representative Ron Larson
Senator Jalmar Kerttula
Senator Mike Szymanski
Alaska Municipal League

City of Klawock Alaska

P.O. Box 113
Klawock, Alaska 99925

Phone: (907) 755-2261
or: (907) 755-2262

"Site of the First Cannery in Alaska"

February 20, 1990

Senator Coghill
Pouch V
Juneau, AK 99811

Dear Senator Coghill,

The City of Klawock supports Senate Bill 438 which would include fire protection under extra territorial jurisdiction for this would provide needed fire protection for the residents residing outside of the City limits such as a trailer court where approximately One Hundred persons reside and fire protection for the Klawock Alaska Timber Saw Mill which employs approximately One Hundred persons in three shifts and lives and property of those residing on the Saw Mill site. In fact the City had submitted an application for a fire protection grant to provide needed fire protection for the residents of Klawock and those residing outside of the City limits. The grant application was rated high by one of the review board but rated low by two others because they believed that the fire department should not leave the City limits to extinguish fires.

In the past the Klawock Volunteer Fire Department has responded to fires outside the City limits. In 1989 the Klawock Volunteer Fire Department had to respond to Sanitary Landfill fires. Had those fires not been extinguished, the cities of Klawock and Craig would not have had a site to dispose of solid waste. The Klawock Volunteer Fire Department has also responded to emergency medical, police and fires in the trailer court outside the City limits and fires at the Saw Mill. Had the Saw Mill been destroyed or even partially destroyed by fire many would be unemployed until necessary repair work was completed, also lives and property were in jeopardy. Therefore it is very important to those living and working outside City limits to have fire protection. This has been discussed with the insurance company. There should not be an increase in insurance premium for the City. Currently the City does face potential liability by City limits. Passage of Senate Bill 438 would eliminate that liability and provide needed fire protection for those living and working outside the City limits.

An amendment to Senate bill 438 that should be considered is Police Protection. Currently City police jurisdiction is within City limits. Alaska State Troopers deputize City police to allow the City police to respond to police protection needs outside City limits. Does deputizing City Police Officers to allow them to respond to police protection needs outside City limits protect the City from any potential liability should the City police be unable to respond to police protection needs within the City limits because the City police was responding to police protection needs outside the City limits? It is the City tax payers that are paying the wages of the City police officers. Also the City has no documentation to justify or authorize spending City tax dollars for police protection outside the City limits, nor does the City derive any revenues other

Continued...

Senator Coghill
February 20, 1990
Page TWO

than for traffic violations for police protection outside the City limits.

The aforementioned are mentioned in consideration as a possible amendment to Senate Bill 438.

Respectfully,

Aaron T. Isaacs, Jr.
Mayor

by: Al P. Macasaet, Sr.
Administrative Assistant

AM/lf

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DCRA
 Title: An act relating to fire protection outside municipalities BRU: _____
 Sponsor: Senator Coghill Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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: *Jim Plasmann* Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 2/26/90
 Approved by Commissioner: *David G. Johnson* Date: 2-26-90
 Agency: Community & Regional Affairs

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

Chapter 28. Elections.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 33. Areawide Borough Powers and Duties.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 35. Municipal Powers and Duties.

Article

1. General Powers (§§ 29.35.010 — 29.35.145)
2. Mandatory Areawide Powers (§§ 29.35.150 — 29.35.180)
3. Additional Powers (§§ 29.35.200 — 29.35.220)
4. City Powers (§§ 29.35.250 — 29.35.260)
5. Acquisition of Additional Powers (§§ 29.35.300 — 29.35.350)
6. Construction of Powers (§§ 29.35.400 — 29.35.420)
7. Service Areas (§§ 29.35.450 — 29.35.490)
8. Hazardous Materials and Hazardous Wastes (§§ 29.35.500 — 29.35.590)

Article 1. General Powers.

Section

10. General powers
20. Extraterritorial jurisdiction
30. Eminent domain
40. Emergency disaster powers
50. Garbage and solid waste services
60. Franchises and permits
70. Public utilities
80. Alcoholic beverages

Section

90. Municipal property
100. Budget and capital program
110. Expenditure of borough revenues
120. Post audit
130. Emergency services communications centers
140. Regulation of transportation carriers
145. Regulation of firearms

Sec. 29.35.010. General powers. All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected or appointed municipal official or employee;
- (2) to combine two or more appointive or administrative offices;
- (3) to establish and prescribe the functions of a municipal department, office, or agency;
- (4) to require periodic and special reports from a municipal department to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;

of all ordinance,

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

The rule of strict construction did not apply to the mode adopted by the corporation to carry into effect powers expressly or plainly granted under a former, similar provision. The power having been granted, the municipal corporation had the power to exercise such power in any reasonable way it saw fit. *Femmer v. City of Juneau*, 9 Alaska 175 (1927), aff'd, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Taxing authority consistent with liberal construction requirements. — The broad grant of taxing authority, limited only by other provisions of law, is consistent with the second sentence of Alas. Const., art. X, § 1, which requires that a "liberal construction shall be given to the powers of local government units." *Liberati v. Bristol Bay Borough*, Sup. Ct.

Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978), decided under former, similar law.

Imposition of civil penalties. — The power of a municipality to impose a civil penalty for failure to timely file or pay sales taxes is granted primarily because Alaska Const., art. X, § 1, requires that a liberal construction be given to the powers of municipalities. *Bookey v. Kenai Peninsula Borough*, Sup. Ct. Op. No. 2199 (File No. 4878), 618 P.2d 567 (1980), decided under former, similar law.

There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978), decided under former, similar law.

Collateral references. — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 193-230.

Estoppel as to claim against municipality. 1 ALR2d 338.

Contributory negligence as defense in action by municipality. 1 ALR2d 827.

Granting or taking of lease by muni-

pality as within authorization of purchase or acquisition thereof. 11 ALR2d 168.

Compromise of claim, power of city as to. 15 ALR2d 1359.

Death action against municipal corporation as subject to statute of limitations governing wrongful death actions or that governing actions against a municipality

for injury to person or property. 53 ALR2d 1068.

Mandamus, liability of municipal corporation for damages to successful plaintiff or relator in. 73 ALR2d 930; 34 ALR4th 457.

Waiver of, or estoppel to rely upon, contractual limitation of time for bringing action against municipality or other political subdivision. 81 ALR2d 1039.

Pledging parking meter revenues as unlawful relinquishment of governmental power. 83 ALR2d 649.

Revocation, prior to execution of formal written contract, of vote for decision of public body awarding contract to bidder. 3 ALR3d 864.

Power of municipal corporation to submit to arbitration. 20 ALR3d 569.

Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Liability of municipality on quasi contract for value of property or work fur-

nished without compliance with bidding requirements. 33 ALR3d 1164.

Power of eminent domain as between state and subdivision or agency thereof, or as between different subdivisions or agencies themselves. 35 ALR3d 1293.

Validity of "freezing" ordinances or statutes preventing prospective condemnee from improving, or otherwise changing, the condition of his property. 36 ALR3d 751.

Validity and construction of statute or ordinance providing for repair or destruction of residential building by public authorities at owner's expense. 43 ALR3d 916.

Right of governmental entity to maintain action for defamation. 45 ALR3d 1315.

Power of municipal corporation to lease or sublet property owned or leased by it. 47 ALR3d 19.

Recovery of exemplary or punitive damages from municipal corporation. 1 ALR4th 448.

Sec. 29.35.020. Extraterritorial jurisdiction. (a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to protect its water supply and watershed, and may enforce the ordinance outside its boundaries. Before this power may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

Power granted does not deprive city of other powers. — There was no reason that the grant to the council of power to extend roads and trails from its limits to certain points without its limits under a former, similar provision in any manner deprived the council of any of the implied

or necessary powers which it would have enjoyed, in the absence of any such express grant in the charter. *Town of Ketchikan v. Zimmerman*, 4 Alaska 336 (1911).

If authority had not been expressly given by a former, similar provision for a

city to purchase land outside of the incorporated limits and to divert a stream beyond its limits and prevent it from reach-

ing the incorporated limits, such authority was necessarily implied. *Town of Seward v. Margules*, 9 Alaska 354 (1938).

Collateral references. — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 227, 228, 436, 560 et seq.

62 C.J.S., *Municipal Corporations*, § 141; C3 C.J.S., *Municipal Corporations*, §§ 1050-1052.

Standing of municipal corporation or other governmental body to attack zoning of land lying outside its borders. 49 ALR3d 1126.

Sec. 29.35.030. Eminent domain. (a) A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 — 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — Cost of substitute facilities as measure of compensation paid to state or municipality for condemnation of public property. 40 ALR3d 143.

Consideration of fact that land owner's remaining land will be subject to special assessment in fixing severance damages. 59 ALR3d 534.

Sec. 29.35.040. Emergency disaster powers. (a) A municipality that is wholly or partially in an area that is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonareawide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310.

(b) Powers granted by this section must be initiated within a period of not more than five years after the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years. (§ 10 ch 74 SLA 1985)

Sec. 29.35.050. Garbage and solid waste services. (a) A municipality may by ordinance

(1) provide for the establishment, maintenance, and operation of a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

S B

452

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 452

SPONSOR Rodey

BILL TITLE Repeals longevity bonus limitations on OAC

DATE REFERRED 2.8.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

SB 452, Limitations on Olders Alaskans Commission.

TO TESTIFY;

Senator Rodey
Fran Toland, OAC

NOTES;

NONE.

BY SEN. RODEY

1 IN THE SENATE

2

SENATE BILL NO. 452

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act repealing limitations on the Older Alaskans

7

Commission relating to the longevity bonus program

8

and the Alaska Pioneers' Home."

9

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

10

* Section 1. AS 44.21.230(c) is repealed.

Faiks - review, opinions = OK - No investigation powers.
allow to comment.

Amendment #1

Comm. may comment and review but not investigate or undertake
any responsibility for - - - - -

(c) The commission shall elect one of its members as chairperson, and may select other officers it considers necessary. (§ 2 ch 79 SLA 1981)

Sec. 44.21.220. Compensation. Members of the commission receive no compensation for their services, but are entitled to per diem and travel allowances authorized by law for other boards and commissions under AS 39.20.180. (§ 2 ch 79 SLA 1981)

Sec. 44.21.230. Powers, duties, and limitations. (a) The commission shall

(1) formulate a comprehensive statewide plan that identifies the concerns and needs of older Alaskans and, with reference to the plan adopted, prepare and submit to the governor and legislature an annual analysis and evaluation of the services that are provided to older Alaskans;

(2) make recommendations directly to the governor and legislature with respect to legislation, regulations, and appropriations for programs or services that benefit older Alaskans;

(3) encourage and aid the development of municipal commissions serving older Alaskans and community-oriented programs and services for the benefit of older Alaskans;

(4) employ an executive director who serves at the pleasure of the commission;

(5) help older Alaskans lead dignified, independent, and useful lives;

(6) request and receive reports and audits from state agencies and local institutions concerned with the conditions and needs of older Alaskans;

(7) administer, with the approval of the commissioner of administration, federal programs as provided under 42 U.S.C. 3001 — 3045i (Older Americans Act), as amended; and

(8) administer, with the approval of the commissioner of administration, state programs as provided under AS 47.65.

(b) To accomplish its duties, the commission may

(1) review, evaluate, and comment upon state programs concerned with the problems and the needs of older Alaskans;

(2) collect facts and statistics, and make studies of conditions and problems pertaining to the employment, health, financial security, social welfare, and other concerns that bear upon the well-being of older Alaskans;

(3) provide information about public programs that would be of interest or benefit to older Alaskans;

(4) appoint special committees, which may include persons who are not members of the commission, to complete necessary studies.

(5) promote community education efforts regarding the problems and concerns of older Alaskans;

(6) contract for necessary services;

(7) consult and cooperate with persons, organizations, and groups interested in or concerned with programs of assistance to older Alaskans;

(8) advocate improved programs of benefit to older Alaskans;

(9) set standards for levels of services for older Alaskans for programs administered by the commission; and

(10) adopt regulations necessary for the administration of AS 44.21.200 — 44.21.240 and to comply with federal law.

(c) The commission may not investigate, review, or undertake any responsibility for the longevity bonus program under AS 47.45 or, except for activities of the office of the long term care ombudsman, the Alaska Pioneers' Homes under AS 47.25.010 — 47.25.100. (§ 2 ch 79 SLA 1981; am § 1 ch 108 SLA 1988; am § 51 ch 50 SLA 1989)

Effect of amendments. — The 1988 amendment, in subsection (b), added "and" at the end of paragraph (9) and added paragraph (10).

The 1989 amendment, effective May 27, 1989, inserted "except for activities of the office of the long term care ombudsman" in subsection (c).

Sec. 44.21.231. Office of the long term care ombudsman. (a) The office of the long term care ombudsman is established in the commission.

(b) The ombudsman shall be hired by the commission. A member of the commission who has a financial interest in a long term care facility in the state, or who has any other conflict of interest, may not participate in the hiring of the ombudsman. The ombudsman is a full-time position in the classified service.

(c) The ombudsman may not have a financial interest in a long term care facility in the state. The commission shall adopt regulations to ensure that the ombudsman, and employees and volunteers of the office, do not have a conflict of interest or an appearance of a conflict of interest. (§ 2 ch 108 SLA 1988)

Sec. 44.21.232. Duties and powers of the long term care ombudsman. (a) The ombudsman shall investigate and resolve a complaint made by or on behalf of an older Alaskan who resides in a long term care facility in the state if the complaint relates to a decision, action, or failure to act by a provider or a representative of a provider of long term care services, or by a public agency or social services agency, that may adversely affect the health, safety, welfare, or rights of the older Alaskan.

(b) The ombudsman may investigate and resolve a complaint made by or on behalf of an older Alaskan relating to the long term care or residential circumstances of the older Alaskan. Complaints under this

Patrick M. Rodey
Senator

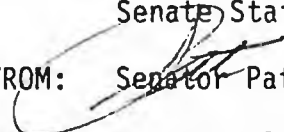
Alaska State Legislature



Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

DATE: March 26, 1990
TO : Senator Pat Pourchot, Chair
Senate State Affairs Committee
FROM:  Senator Patrick Rodey
RE : Senate Bill 452

I would appreciate your consideration in scheduling Senate Bill 452 in the Senate State Affairs Committee at your earliest convenience.

The proposal expands the powers of the Older Alaskans Commission by repealing AS 44.21.230 (c) - a copy is attached - which currently denies the OAC the authority to investigate, review or undertake any responsibility for the longevity bonus program or the Alaska Pioneers' Homes.

Senate Bill 452 would establish a policy to allow the OAC to participate in matters regarding Alaska's seniors.

There is no fiscal impact.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act repealing limitations on BRU: Older Alaskans Commission
the OAC relating to the longevity bonus*
 Sponsor: Reidy Components: _____
 Requestor: _____

*program and the Alaska Pioneers' Home.
 EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to FY 90.

There will be no fiscal impact to FY 91, as no additional staff is required.

Prepared by: Connie J. Sipe, Executive Director Phone: 465-3250
 Division: Older Alaskans Commission Date: _____
 Approved by Commissioner: Frank S. Baxter Date: 4/23/90
 Agency: Department of Administration

Distribution (by preparer):

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

Original sponsor(s): SEN. RODEY

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 452 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Older Alaskans Commission to
7 exercise review and comment powers relating to the
8 longevity bonus program and the Alaska Pioneers'
9 Home."

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

11 * Section 1. AS 44.21.230(c) is amended to read:

12 (c) The commission may review and comment on, but may not inves-
13 tigate [, REVIEW,] or undertake any responsibility for, the longevity
14 bonus program under AS 47.45. The commission may review and comment
15 on, but [OR], except for activities of the office of the long term
16 care ombudsman, may not investigate or undertake any responsibility
17 for, the Alaska Pioneers' Homes under AS 47.25.010 - 47.25.100.

Original sponsor(s): SEN. RODEY

CS PASSED
"ALL" DO PASS

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 452 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the Older Alaskans Commission to
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8 longevity bonus program and the Alaska Pioneers'
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15 on, but [OR], except for activities of the office of the long term
16 care ombudsman, may not investigate or undertake any responsibility
17 for, the Alaska Pioneers' Homes under AS 47.25.010 - 47.25.100.

18
19
20 S.A. — instead of repealing limitations statute,
21 the C.S. allows OAC may review and
22 comment on longevity bonus and Pioneer Homes
23 but not investigate or take responsibility for.
24
25

S B

456

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 456

SPONSOR GOV

BILL TITLE: Police Protection in Home Rule/Gen. Law

DATE REFERRED 2.8.90

HEARING SCHEDULED 3.23.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED Gail Horetcki ✓ - 4322

INTERESTED PARTIES CONTACTED

will testify
contact ✓ Barbara (Larson's Office) 376-8628
✓ Mayor John Stein - 373-9055
L.M. Lt. Murphy - Troopers 745-2121
✓ L.M. Don Moore - Mat-Su 745-9689 =
won't testify - Brian Phillips - ^{City} Manager - 452-1871 Ext. 265
✓ Gail Horetcki - 4322
✓ Jim Plarman - CK A
✓ Jim BALDWIN - AG

OTHER

Does not apply to a unified municipality.

GAIL
Definition — 29.04.010
Home Rule ^{author}
< Gen. Law
Unified Municipality
Hillside? Girwood
List of affected communities.



Alaska State Legislature

Senate

Office of the Secretary

OFFICIAL BUSINESS

P.O. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: March 7, 1990

TO SENATE COMMITTEE: STATE AFFAIRS

FROM: Office of the Senate Secretary

The Senate President has added/changed the referral(s) on the following bill(s):

SENATE BILL NO. 456

Certain general law and home rule cities to provide police protection and law enforcement services; efd.

Please give the bill file(s) and the signed letter (this note) to the page delivering this message.

Thank you for your prompt attention.

SIGNATURE OF PERSON RECEIVING THIS NOTE

JR/s

STEVE COWPER
GOVERNOR



✓56

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1990

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

Dear Mr. President:

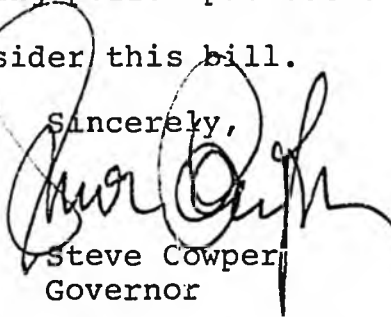
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the exercise of police powers by general law and home rule cities. If enacted, this bill would require cities with 2,000 or more residents to provide police protection and law enforcement services. The provisions of this bill are an abbreviated version of sec. 14 of HB 301 (which currently resides in House Finance Committee). I introduced that bill last session as part of an effort to set out the statutory changes necessary to reduce the cost of state government. My goal was the enactment of sufficient authority to require municipal governments to assume the responsibility and expense of providing police protection to their citizens.

Several municipalities in the state currently provide these services while currently only one city of 2,000 or more residents does not. In my opinion, cities with a population of at least 2,000 are of such a size that they are the best suited to provide these services. It is not fair to allow some cities to escape the responsibilities so willingly shouldered by others. I am concerned that if this inequality continues, other cities will cease providing local police protection. An unanticipated decision to cease providing police protection would dramatically increase the cost to the state of providing

police protection. This bill would maintain the status quo for the majority of cities while also forcing the few cities not currently providing police protection to do so.

I urge you to favorably consider this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members

FROM: Senator Pat Pourchot

RE: Friday, March 23 Committee Hearing

DATE: March 22, 1990

On Friday, March 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SSSB 301. An Act relating to the Power Cost Equalization Program.

SSSB 301 and the Power Cost Equalization Report recommend changing the PCE formula's minimum entry rate, eliminating federal and state governments and state funded schools as eligible commercial customers, prioritizing funds to first residential, then commercial facilities and then commercial customers, lowering residential and commercial caps from 750 kWh/month and lowering the community facility cap from 70 kWh/month/resident to 50 kWh/month/resident.

A report on Energy Credits prepared by Alan Mitchell, the State Consumer Advocate, is included in your packet and is currently being released for public review. The report compares PCE with Energy Credits on a utility by utility basis using data from 1988.

This is the third hearing on PCE, testimony will be heard from the public.

SB 456. An Act requiring certain general law and home rule cities to provide police protection and law enforcement services; and providing for an effective date.

SB 456 would require the city of Wasilla to provide police protection and would prevent other cities, such as Fairbanks from withdrawing police service in favor of State Trooper protection. This bill does not impact unified municipalities such as Anchorage. Representatives of the cities of Wasilla and Fairbanks have been invited to testify.

SB 456, Police Protection in Home Rule/General Law Cities. 3/23/90

TELECONFERENCE; Mat-Su LIO, Fairbanks LIO

TO TESTIFY;

Gail Horetski: DPS

Jim Plasman: C&RA

Mayor John Stein: Mayor of Wasilla

Jim Baldwin: AG's Office

NOTIFIED;

Mat-Su Borough: Don Moore (Manager?) (may not testify, avoiding the issue)

Fairbanks City Manager: Brian Phillips (may listen in, topic is too hot to testify on)

State Troopers/Mat-Su: Lt. Murphy

NOTES;

1. Jim Baldwin has reviewed the bill and verifies that the bill has two purposes: It would require Wasilla, (and only Wasilla) to provide police protection and would prevent cities like Fairbanks from closing down their police services due to budget cuts. He may propose an amendment which clarifies that unified municipalities (i.e. Anchorage) are not impacted by this bill.

2. There is a similar bill (HB 301) sitting in House Finance, doesn't appear to be going anywhere.

3. Letter from the Mayor of Wasilla is in opposition to the bill but suggests that political subdivisions other than cities be considered when requiring police services.

HEARD 3.23.90

will be held for study —

§ 29.03.030

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improvements. 36

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1 74 SLA 1985)

§ 29.04.010

MUNICIPAL GOVERNMENT

§ 29.04.030

Chapter 04. Classification of Municipalities.

Section

- 10. Home rule
- 20. General law
- 30. Classes of general law
- 40. Reclassification of second class cities

Section

- 50. Reclassification of second class bor-
oughs
- 60. Reclassification of third class bor-
oughs

Sec. 29.04.010. Home rule. A home rule municipality is a municipal corporation and political subdivision. It is a city or a borough that has adopted a home rule charter, or it is a unified municipality. A home rule municipality has all legislative powers not prohibited by law or charter. (§ 3 ch 74 SLA 1985)

NOTES TO DECISIONS

"Local activity rule". — Under a former, similar provision, the "local activity rule" was found to be an expedient method for resolving an impasse between state statutes which seek to further a specific policy and municipal ordinances which either directly or collaterally impede this implementation. Conflicts between state statutes and municipal ordinances generally were modulated by rul-

ing in favor of the statutes. *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 647 (File No. 1152), 476 P.2d 115 (1970).

A parallel provision to Alaska Const. art. X, § 11, was found in former AS 29.05.020, a similar provision. *City of Fairbanks v. Schrock*, Sup. Ct. Op. No. 567 (File No. 1032), 457 P.2d 242 (1969).

Collateral references. — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 98-138.

62 C.J.S., *Municipal Corporations*, §§ 3, 4, 13, 187.

Sec. 29.04.020. General law. A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law. (§ 3 ch 74 SLA 1985)

Sec. 29.04.030. Classes of general law. General law municipalities are of five classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) third class boroughs;
- (4) first class cities;
- (5) second class cities. (§ 3 ch 74 SLA 1985)

STEVE COWPER
GOVERNOR



✓56

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1990

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

Dear Mr. President:

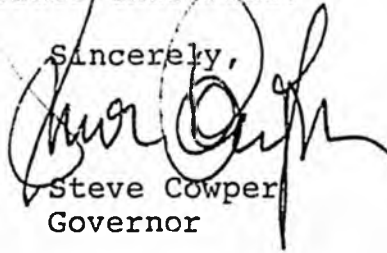
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the exercise of police powers by general law and home rule cities. If enacted, this bill would require cities with 2,000 or more residents to provide police protection and law enforcement services. The provisions of this bill are an abbreviated version of sec. 14 of HB 301 (which currently resides in House Finance Committee). I introduced that bill last session as part of an effort to set out the statutory changes necessary to reduce the cost of state government. My goal was the enactment of sufficient authority to require municipal governments to assume the responsibility and expense of providing police protection to their citizens.

wasilla < Several municipalities in the state currently provide these services while currently only one city of 2,000 or more residents does not. In my opinion, cities with a population of at least 2,000 are of such a size that they are the best suited to provide these services. It is not fair to allow some cities to escape the responsibilities so willingly shouldered by others. I am concerned that if this inequality continues, other cities will cease providing local police protection. An unanticipated decision to cease providing police protection would dramatically increase the cost to the state of providing

police protection. This bill would maintain the status quo for the majority of cities while also forcing the few cities not currently providing police protection to do so.

I urge you to favorably consider this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor



CITY OF WASILLA

200 E. HERNING AVE.
 WASILLA, ALASKA 99687
 PHONE: (907) 373-9050
 FAX: (907) 373-0788

March 8, 1990

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1
To Susan Barnett	From Mayor Stein	
Co.	Co. City of Wasilla	
Dept.	Phone # 373-9050	
Fax # 463-3378	Fax # 373-0788	

The Honorable Steve Cowper
 Governor, State of Alaska
 P. O. Box A
 Juneau, Alaska 99811-0101

Dear Governor Cowper:

In your February 8 transmittal of SB 456 to the President of the Senate, you single out Wasilla as the only city, of population 2,000 or more residents, without a police force. There are a few elements of this issue of which you may not be aware.

The most significant problem that I have discovered relating to the police service to the Mat-Su Central Valley is the relatively high population density of areas outside of cities. From an efficiency of service standpoint it makes little sense for Palmer to provide police for 3,000 people and 3 square miles at a cost of \$1,000,000 per year and Wasilla to serve another 3,500 and 12 square miles for another \$1,000,000 when 30,000 people reside just outside these city boundaries. With the tax implications of police and justice costs, outlying areas are strongly discouraged from annexing to cities, making the problem of financing police services even worse.

The solution to the above is to either look beyond "cities" to other political subdivisions including boroughs and "public safety districts" or facilitate cities annexations to reach a financing critical mass.

I suggest that "responsibilities so willingly shouldered by others" is a myth. Mat-Su and Wasilla have resisted police and justice departments in large part because of the horror stories from other jurisdictions.

I don't think the law enforcement issue for Mat-Su is well understood. I would really like to participate so that we can exchange information and finally solve this problem.

Sincerely,

John C. Stein
 Mayor, City of Wasilla

JCS/sbh

cc: Local Delegation
 President Tim Kelly

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Requiring certain cities to
provide police protection BRU: Alaska State Troopers
 Sponsor: Rules Committee Component: _____
 Requestor: Governor

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will not result in any increased costs to the Department of Public Safety. There may be some potential savings for the state troopers, as there will be a slight reduction in the areas in which the troopers are the primary law enforcement presence. Any troopers "freed up" by this bill would be reassigned to other areas of the state.

Prepared by: Gavle A. Horetski, Deputy Commissioner Phone: 465-4322
 Division: Office of the Commissioner Date: 2/6/90

Approved by Commissioner: Arthur English Date: 2/6/90
 Agency: Department of Public Safety Page 1 of 1

SB 456 — Dave Palmer — 772-4511
City Manager — Petersburg
Cost to cities

FAX_772-3759

FAX INFO

3-23-90

SB 456

Gail Horetski^o -
Wasilla -

ADAMS

Why allow JUD/ARCT off the hook

A: They are offering it in some form
at some level. -

ADAMS

Add in unified municipalities.

PAF:
TO PASMAN

Letter of Wasilla
Annexation issues?

A: It's possible... local option/petition local boundary!

Do you need statutory changes to
enable cities to expand beyond boundaries.

TITLE 29

? Other cities approaching 2,000.

A: Like size, provides protection.

? Glenallen - Rural

A: Basically

DeCamp:

In opposition = Title 29... in a jungle.

Area-wide problem

Ed Cottle:

In opposition =

30,000 w/out of Wasilla

30 Troopers

lt. Murphy -
outlaying population 17,000
Supports the bill.

Mayor Stein: Opposed
Study in 1979 - Borough - to provide
police protection
Palmer - 1 million per year
for 3 sq. miles
Map showing pop. per square
Similar density to Palmer.
Ability to tap large enough
tax ^{area} hampered - Palmer
has not been successful
in annexing

- AMENDED TO MUNICIPALITIES.
- MAT-SU BOROUGH should have pressure ~~being~~ put on them.

Wasilla Budget \$ 1.3 mill / 20 employees/

FAK: Sq. miles?

A: 11.5 sq. miles

Mat-Su Borough - 23,000 sq. miles.

Pat Annexation?

A: Facilitate annexation (City policy)
No annexation by leg or electorate.
ANNEXATION is planning function of
Borough - Borough -

486 to 457 - on police

HOLD

DAVE PALMER - Oppose

→ Title 29:

3440 Pop in Petersburg
Legislature should avoid stepping into

→ JIM BALDWIN:

Taxation w/out representation?

NO - Municipalities are created as
political subdivision.

FAKS Can we mandate cities to spend \$.

A: Education

FAKS Ed. in constitution

• Unified Municipalities



CITY OF PETERSBURG

P.O. BOX 379 • PETERSBURG, ALASKA 99833

TELEPHONE (907) 772-4511

TELECOPIER (907) 772-3759

March 23, 1990

Members of the Senate State Affairs Committee:

My name is David Palmer, I am city manager for the city of Petersburg, population 3440. I have been in that position for one year. Prior to that time, I served 5 1/2 years as city administrator for the city of Craig, a rural community of 1200 people located on Prince of Wales Island. Each community funds and operates a police department.

I wish to speak in opposition to SB 456. I believe that the Governor and the Legislature should leave to local governments the decisions that are appropriate to local governments. The elected officials in Alaskan communities have the duty and responsibility to respond to the needs of their local constituents.

SB 456 removes some of the discretion allowed local elected officials by mandating a service that is presently optional for local governments. The decision as to whether a community can afford police protection and law enforcement services is best determined by those people who have to pay for it. Those are the same people who must live with the consequences of their decisions.

The Legislature should avoid injecting a statewide mandate into the annual budget deliberations of every Alaskan community and thereby

Testimony of David Palmer
Senate State Affairs
SB 456
March 23, 1990
Page 2

usurp the local decision making process at the very level where it operates best, at the local level.

The bill as presented offers more questions than solutions. Apparently, the State is concerned that certain towns, like Wasilla, will elect to have no police protection and that the State is then obligated to provide enforcement services. My position is that if Wasilla wants to go without police protection, that is up to them, but that they should live with the consequences and the State should not feel obligated to fill the void.

As written, the law would exempt communities under 2000 in population. Apparently, the State feels its obligation to provide police protection begins when over 2000 people are clustered together as a community. To avoid fulfilling this responsibility, the proposal is to mandate that communities provide the service instead. I don't understand this. My understanding is that the Legislature determines the level of State law enforcement available by setting the budget each year. If the level of funding is not sufficient to support police protection for communities (regardless of population) I would not expect the State to provide the service, and neither should any other city.

Testimony of David Palmer
Senate State Affairs
SB 456
March 23, 1990
Page 3

The bill mandates "police protection" and "law enforcement services". Those terms should be defined. I found a definition of "police officer", which means a person with the authority to arrest people, to issue citations, to detain a person, to conduct investigations of violations and to enforce criminal laws, traffic laws, conduct a search with or without a warrant, to carry a concealed weapon, and so forth. I would take the bill to require each covered city to employ a certified police officer. Village Public Safety Officers do not qualify.

A suggested amendment to the bill would be language to the effect that "employment of not less than one certified police officer shall constitute compliance with this provision".

A cursory look at the index of statutes did not reveal a definition of the terms "police protection" or "law enforcement services". Those terms could be broadly interpreted to include jails and/or prisons, building code enforcement, harbor patrol, zoning enforcement, parking patrol, and similar topics as found within city ordinances. I suspect that is not the intent of the bill and hopefully, if this bill does not die its deserved natural death, those will be corrected.

Testimony of David Palmer
Senate State Affairs
SB 456
March 23, 1990
Page 4

I am particularly concerned about the inclusion of jails or prisons in light of the Governor's bill mandating communities to operate jails (HB 489/SB 446). Funding decisions for local government services should be left to those elected to make them.

Let me give some specific examples of local decisions related to this matter:

The city of Petersburg has reduced its police force by 2 officers over the past few years due to budget considerations. Presently, we have 5 officers who provide 24 hour a day service. The city council did not fund a requested position for drug enforcement due to the expense. Consequently, drug enforcement is on a "catch as catch can" basis. The decision was controversial, but the community elected not to raise taxes for the position and the city lives with the consequences of the decision. The city did not expect the State Troopers to replace the two lost positions or to place a drug enforcement officer in town because we did not want to pay for one. It is essential that local elected officials retain the ability to respond to local needs and abilities to pay.

I do not expect that Petersburg will cut police protection to zero, so I can say that the practical effects of the bill, if written

Testimony of David Palmer
Senate State Affairs
SB 456
March 23, 1990
Page 5

clearly, may not be extensive. However, the signal that the Legislature sends by passing it is that when the State has trouble funding its operations, it will not hesitate to mandate that the local governments (comprised of your constituents) pick up the tab. It indicated that the Legislature will not hesitate to second guess the local officials as they carry out their duties. That is a poor signal to send, in my opinion.

For an issue such as this which seems localized to one or two communities, the Legislature should let the Department of Public Safety and the local communities work out their problems without dragging every other community into the bickering.

S B

459

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 459

SPONSOR Zharoff

BILL TITLE AK. Fire Commission

DATE REFERRED 2.9.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. Box 34324
Juneau, Alaska 99803-4324

*hand delivered
2/6/90*

RESOLUTION 89-3

TITLE: Support funding of Alaska State Fire Commission .

WHEREAS, the Alaska Legislature, by law, established the Alaska State Fire Commission, and

WHEREAS, the Alaska State Fire Commission has not been appointed by the Governor, and

WHEREAS, the law requires the funding of the Commission through the Department of Public Safety, and

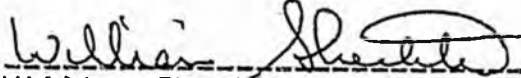
WHEREAS, the Commission is due to "sunset" on June 30, 1990, yet the need for the work of the Commission continues to grow, and


WHEREAS, the Alaska State Firefighters' Association and the Alaska Fire Chiefs' Association have for years urged the appointment and funding of the Alaska State Fire Commission so that it could carry out its mission.

THEREFORE, BE IT RESOLVED, that the Alaska State Firefighters' Association and the Alaska Fire Chiefs' Association reaffirms their commitment for funding the Alaska State Fire Commission and respectfully requests the Legislature to appropriate to the Department of Public Safety funding so the Commission can become a reality.

Recommendation:

Adoption: Pass No Pass


William Shechter, President, Alaska Fire Chiefs' Association


Mike Tagaban, President, Alaska State Firefighters' Association

Submitted by Resolutions Committee

Distribution: Governor Cowder
Governor's Special Assistant - Public Safety
Legislature
ASFA Representative John George

SUSIE

John L. George

Consultant
Risk Management
Insurance
Insurance Regulation

9515 Moraine Way
Juneau, Alaska 99801
907-789-0172



OFFICIAL BUSINESS

Alaska State Legislature

Senate

Office of the Secretary

PO BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

January 11, 1990

TO: Senator Pat Pourchot, Chair
State Affairs Committee

FROM: Nancy Quinto *ng*
Secretary of the Senate

RE: Budget & Audit Report

President Kelly has referred "A LETTER REPORT ON THE ALASKA STATE FIRE COMMISSION" (Sunset Legislation) to your committee for review.

NQ/hc

Enclosure

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
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September 27, 1989

Members of the Legislative Budget
and Audit Committee

RE: Department of Public Safety
Alaska State Fire Commission

This letter constitutes our report on the review of the Department of Public Safety, Alaska State Fire Commission, in accordance with the provisions of Titles 24 and 44 of the Alaska Statutes (sunset legislation).

BACKGROUND

Chapter 157, SLA 1980 established a Task Force on Fire Prevention and Control to: 1) identify fire loss problems in Alaska; 2) identify agencies involved in fire protection activities; 3) recommend modifications to improve the state's fire protection system; and 4) provide documentation to assist agencies in meeting their responsibilities. The Task Force was to submit their final report to the governor and legislature by January 1, 1983. This Task Force was not funded for their third year and terminated June 30, 1983 without completing their work.

A second Task Force was established in 1984 with the same objectives as the first and was given 120 days to finish their work. That Task Force issued a final report in December 1984 detailing eight major areas of concern: 1) fire education and public awareness; 2) fire service training; 3) capital projects; 4) arson; 5) code enforcement; 6) emergency medical services; 7) wildlands fire protection; and 8) interagency planning, coordination and consolidation. Within the last category the Task Force recommended creating the State Fire Commission as a broad based policy setting group to provide direction and coordination of all the fire-related programs.

In 1986 the Alaska State Fire Commission was established (Alaska Statutes 44.41.100-.130) to: 1) develop a state master plan for fire prevention and provide coordination for fire-related programs; 2) establish policy guidelines for agencies with fire protection programs; 3) adopt regulations as necessary; 4) make recommendations for fire-related programs; and 5) report to the governor and legislature when requested. There was a fiscal note of \$180,000 funded with the bill establishing the Commission. Due to the revenue shortfall during FY87, Governor Sheffield recommended that the funding for the Commission be eliminated.

The Legislature approved and ratified the executive restrictions for the FY87 operating budget in Chapter 9, SLA 1987.

Alaska Statutes 44.66.010(13) specifies that the Alaska State Fire Commission will expire June 30, 1990. Commission members were never appointed and there is no funding for it. Due to budget constraints over the past few years it has not been included as a departmental priority. According to Sam Neal, State Fire Marshall, the Commission would still be a high priority with the various fire service agencies. However, Mr. Neal indicated that the main concern behind establishing the Commission was direction and coordination of all fire-related programs and he believes that his office has been able to accomplish at least eighty percent of the Commission's statutory requirements.

REPORT CONCLUSION

In our opinion the Alaska State Fire Commission should be allowed to terminate. The Commission has never received any funding and is not an Executive Branch priority. Many of the duties of the Commission are being adequately addressed by the State Fire Marshall's Office and there is no evidence that existence of the Commission would substantially improve the public's health, safety or welfare.



Mike Greany, Director
Division of Legislative Finance

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

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November 13, 1989

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Mr. Randy S. Welker
Legislative Auditor
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

Dear Mr. Welker:

I am writing in response to your preliminary audit report on:

"A Letter Report on the Department of Public Safety, Alaska State Fire Commission, dated September 27, 1989."

I have discussed the report with Mr. Sam Neal, State Fire Marshal. We feel there is one clarification that should be made. On page 2 of the report the auditor writes that Mr. Neal "believes that his office has been able to accomplish at least eighty percent of the Commission's statutory requirements." Mr. Neal believes that the Division of Fire Prevention (DFP) has been able to address approximately eighty percent of the recommendations made by the second Task Force (1984), not eighty percent of the responsibilities assigned to the Fire Commission.

The Department of Public Safety supports the Fire Commission, and believes that it should be funded. That funding cannot be diverted from any existing DFP programs, however. At a time when over 30 percent of high priority facilities that require annual fire inspections (hospitals, schools, jails, etc.) are not being inspected each year due to limited resources, it would not be appropriate to redirect a portion of the Division's budget to fund an advisory body. Direct services to increase the safety of the public should be expanded, not reduced.

After careful thought, I find myself unable to agree with the recommendation that the Fire Commission be allowed to terminate. While funding for the Commission has not been

Mr. Randy S. Welker

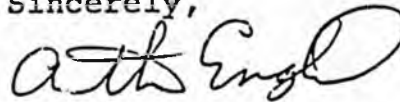
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available to date, it is possible that it may become available at a future time. A bill was introduced during the Fifteenth Legislature (HB 230) that would have established a separate account (through a tax on insurance premiums) from which appropriations could be made to fund the Commission. Other funding mechanisms have also been discussed from time to time. Because of the possibility (however uncertain at this time) of future funding for the Fire Commission, I am of the opinion that the Commission should be renewed for another four-year period. The question of its termination could be examined again at the end of that time.

Thank you for this opportunity to respond to your preliminary report. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Arthur English". The signature is written in dark ink and is positioned below the word "Sincerely,".

Arthur English
Commissioner

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SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 485

SPONSOR Fahrenkamp

BILL TITLE Telecommunications Information
Council and charges/fund

DATE REFERRED 2.12.90

HEARING SCHEDULED 3.5.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED Joan —

INTERESTED PARTIES CONTACTED

OTHER