

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992
7346 SENATE COMMUNITY & REGIONAL AFFAIRS 8672

With these considerations in mind, the Commission believes that it is reasonable and responsible to raise the issue of compensation once again. If the State of Alaska expects to draw five-year commitments from qualified citizens who donate hundreds of hours every year (often at considerable loss of personal income), the State must recognize their value. Keep in mind that some members of the Commission have served without compensation for as long as fifteen years. Given the demands of time, travel and political pressures, it may grow increasingly difficult to attract members who are willing to serve without compensation.

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Exhibit A

MODEL BOROUGH BOUNDARIES PROJECT:

STATEMENT OF PURPOSE

The goal of the Local Boundary Commission's "model borough boundaries" project is to perform a thorough, methodical, technical examination of the entire unorganized borough. The point of this process is to determine which areas would be 'ideally' included within the boundaries of existing boroughs and which would be 'ideally' reserved for future borough formation.

There are four elements which comprise the 'mission' of this project. They are as follows.

1. The examination is limited to the state's unorganized borough. It includes existing boroughs only to the extent that areas of the unorganized borough might be found to be within the 'ideal' boundaries of existing boroughs.
2. The map of 'ideal' boundaries resulting from this project will be an advisory tool for use by petitioners proposing a boundary action and for use by Commissioners who will rule on the proposed action.
3. Model boundaries do not necessarily insulate a region against future annexation by an existing borough.
4. Once model boundaries are established, no borough will be compelled to annex an area to conform to those boundaries, just as no area of the unorganized borough will be compelled to incorporate.

The project is confined to an examination of the state's unorganized borough. Existing boroughs will be considered only to the extent that areas of the unorganized borough might be found to belong within their 'ideal' boundaries. The focus is on the ideal boundaries of future boroughs, not current boroughs.

The resulting map of 'ideal' borough boundaries will assist petitioners and the Commission alike. It will help guide those who petition for specific boundary actions in proposing boundaries deemed best for the area. It will help guide the Commission in determining the suitability of the proposed boundaries. It will be the "yardstick" against which proposed boundaries will be measured. Should territory be requested in a petition beyond that which is included in the relevant 'ideal' boundary, the burden of justifying the boundary will be upon the petitioner. Good cause must be shown for such deviations.

There may be a perception on the part of some residents of the unorganized borough that model boundaries might provide absolute assurance that certain areas will be reserved for a future borough. They may believe that their area might therefore, rest outside the realm of annexation by existing boroughs. While this may be true to a very limited extent, the Commission intends for the project to provide no guarantee that an area will not be approved for annexation if it is shown there is sufficient cause for the action. Any other position would likely serve as a significant deterrent to future borough formation.

Creation of ideal borough boundaries will not compel the annexation of areas currently outside organized boroughs which are found to be within the 'ideal' boundaries of these boroughs. Just as the Commission is not intending to promote the mandatory incorporation of new boroughs along 'ideal' boundary lines, it is not requiring that 'ideal' boundaries result in annexation. Further, if an organized borough seeks to annex a portion of the territory within its ideal boundaries, it will not be compelled to expand the area to encompass all of the territory within its ideal boundaries. To implement the model boundaries in such an incremental fashion would be unjust. Compelling annexation in this fashion is analogous to compelling incorporation of areas of the unorganized borough which have the financial capacity to support a borough.

Exhibit A

**STATEMENT OF
PURPOSE
(continued)**

Exhibit B

A Resolution Supporting Changes in the Education Foundation Formula and other Measures to Encourage Borough Incorporation and Annexation

WHEREAS, Section 1 of Chapter 52, Session Laws of Alaska 1963, (the act under which most boroughs in Alaska were organized) provides that "[T]he incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues or assistance or be otherwise penalized because of incorporation"; and

WHEREAS, the cost of education is typically the single greatest expenditure by boroughs, far surpassing the cost of other services; and

WHEREAS, the formula under which the State of Alaska provides funding for operation and construction of schools imposes significant penalties upon organized boroughs, thus discouraging the formation of new boroughs; and

WHEREAS, the education funding formula also discourages annexation by existing organized boroughs; and

WHEREAS, the State Board of Education has reportedly expressed interest in the examination of education funding formulas to reduce or eliminate disincentives for borough incorporation and annexation;

NOW, THEREFORE, BE IT RESOLVED, that the Alaska Local Boundary Commission strongly supports the examination of the education funding formulas in order to reduce or eliminate disincentives for borough incorporation and annexation.

BE IT FURTHER RESOLVED, that the Commission hereby encourages the Governor to call for the examination of other state funding formulas to promote equity among regions and to eliminate disincentives for borough incorporation and annexation. Additionally, alternative municipal options should be considered as a means to promote borough incorporation. These may include the ability to incorporate unified municipalities and to form a class of borough other than that currently permitted by statute.

ADOPTED AT A DULY CONVENED MEETING OF THE ALASKA LOCAL BOUNDARY COMMISSION THIS 13TH DAY OF JULY, 1990.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 26, 1991

POSITION PAPER

RE: Senate Bill 96

SPONSOR: Senate Community and Regional Affairs Committee

Program Effects of Bill

Currently the Alaska Local Boundary Commission receives no compensation for time spent attending Commission meetings. Senate Bill No. 96 will provide compensation at a rate of \$150 to each member for each day the member attends a Commission meeting.

Comments

In each of the past four years bills have been before the legislature which would have provided compensation to the Commission. The rate of compensation would have been \$150/day for each day any member attended a meeting. Such bills were approved by the Senate in 1988 and 1990. However, the measures failed to gain approval in the House. In 1990, the bill made it through all committees of referral in the House except the Rules Committee.

The Department of Community and Regional Affairs supports SB 96 just as it has supported its predecessors. The justification for a bill of this nature has become increasingly evident to the Department over the many years it has provided staff support to the Commission. The reasons are straightforward and many.

1. One of only four boards established by the Alaska Constitution in 1959, the Local Boundary Commission is one of the oldest and longest standing volunteer bodies in the state today. The Commission has evolved over these years from a body who originally met only three or four times a year to address boundary issues in fewer than 30 municipal governments, to one today who convenes an average of 25 meetings each year and rules on matters in 164 municipalities.

2. The amount of travel required by the Commission is tremendous. Intentionally seeking local input, the Commission meets whenever possible, where proposals originate. For example, during 1990 the Commission held meetings in Fairbanks, Juneau, Palmer, Nenana, Anchorage, Healy, Central, Fort Yukon, Livengood, McGrath, Tanana, Cantwell, McKinley Park and Anderson. It traveled to several of these communities more than once. In total, the Commission met 25 times last year. Anyone familiar with Alaska does not have to be told that this travel frequently occurred under hazardous weather conditions.

3. The volume of decisions and extent of travel alone do not fully account for the demands placed on the Commission today. Procedures which were simple thirty years ago have grown much more complex. For example, during its first fourteen years the Commission operated under only 3 pages of regulations. Today, its regulations consume more than 50 pages in the Alaska Administrative Code. Many of the provisions were mandated by the State Supreme Court. Commission procedures are further complicated by the requirement for U.S. Justice Department review and approval of every municipal boundary change ruled upon by the Commission.

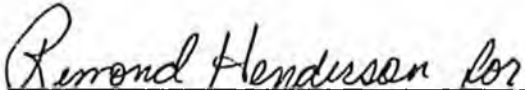
4. Compounding the duties of the Commission is the tendency of the public to litigate disputes. Given the typically controversial nature of the issues before the Commission, it is not surprising that its decisions occasionally end in court. They have in fact, been the subject of six landmark rulings by the State Supreme Court. A host of other Supreme and Superior Court decisions affect each and every action of the Commission.

5. All of these circumstances combine to create a very demanding challenge. Today's Commission members must maintain a level of knowledge and energy expected of only the most dedicated. The Commission's rulings have significant implications for residents throughout Alaska. Its decisions frequently determine how fundamental services such as education will be delivered. To carry out their duties responsibly, each member typically spends at least sixteen hours preparing for each meeting.

These volunteers serve five year terms and are typically willing to accept reappointment. In every instance they are professionals able to command premium value for their time and talents. Yet all members forego their pay each day they travel to and from Commission meetings and each day they attend these meetings. Over a year's period this translates into thousands of dollars of lost personal income.

Position Paper - Senate Bill 96
February 26, 1991
Page Three

With these considerations in mind, the Department believes that compensation for Commission members is long overdue. If the State expects to keep qualified citizens who are willing to donate hundreds of hours every year, who are capable of making decisions in the face of intense pressure, who are willing to travel from one end of Alaska to the other under extreme weather conditions, and who can appreciate the significance of their rulings, then the State must recognize their value. Recognizing that it takes time for members of the Commission to develop expertise in this complex field, it is in the State's interest to recognize the importance of this Commission. The Department finds that SB 96 is a good effort toward this recognition.


Edgar Blatchford, Commissioner

Post-It™ brand fax transmittal memo 7671		* of pages *	
To	DAVID SKIDMORE	From	DAN BOGISHWIST
Co	Senator Frank's Office	Co	DCRA
Dept		Phone #	563-1073
Fax #	465-4714	Fax #	563-1734

COMPENSATION TO STATE BOARDS AND COMMISSIONS

The State of Alaska Boards and Commissions Book published by the Governor's Office in March, 1989 lists 116 "statutorily established boards and commissions that are currently functioning in state government". An examination of this publication shows that certain of these boards and commissions receive compensation as follows:

<u>BOARD OR COMMISSION</u>	<u>COMPENSATION</u>
Commercial Fisheries Entry Commission:	Salaried
Commercial Fisheries and Agricultural Bank - Board of Directors	Not to exceed \$250/day
Public Employees" and Teachers' Disability Review Board	Hourly Compensation "consistent with normal hourly earnings" for 2 members who are physicians
Board of Fisheries	\$150 - \$100/day
Board of Game	\$150 - \$100/day
Alaska Housing Finance Corporation	\$100/day
Alaska Industrial Development and Export Authority	\$100/day
Occupational Safety and Health Review Board	\$50/day
State Board of Parole	"Set by Governor"
Alaska Permanent Fund Corporation Board of Directors	\$400/day
Professional Teaching Practices Commission	"administrative leave; state reimburses for more than 15 days"
Public Offices Commission	\$50/day
Board of Directors of the Alaska Railroad Corporation	\$400/day
Alaska Science and Technology Foundation - Board of Directors	\$200/day
Alaska Public Utilities Commission	Salaried
Alaska Workers' Compensation Board	\$50/day

To: David Skidmore
Aide to Senator Frank
Telefax number: 465-4714

From: Dan Bockhorst *DB*
Staff to the Local Boundary Commission
Telephone: 563-1073
Fax number: 563-1734

Subject: Local Boundary Commission Compensation

Date: January 30, 1991

Charles Bettisworth, Chairman of the Alaska Local Boundary Commission, has asked me to provide you with information concerning the issue of compensation to the Local Boundary Commission.

Attached is a copy of CS for Senate Bill No. 11 (Finance), providing compensation to the LBC, which was approved by the Senate last year. This same bill made it through all committees of referral in the House except the Rules Committee.

Pages 22 and 23 of the Commission's 1990 Annual Report to the legislature provides a statement by the Commission concerning the need for compensation. I understand from Mr. Bettisworth that you have read the report (copy sent to Senator Frank on January 25). If you need any additional information concerning this matter, please call me at the telephone number listed above.

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

WALTER J. HICKEL, GOVERNOR

949 EAST 36TH AVENUE, SUITE 404
ANCHORAGE, ALASKA 99508
PHONE (907) 561 8586

456-5780 Fairbanks

January 25, 1991

The Honorable Steve Frank
Chair
Senate Community and Regional Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Frank:

On behalf of the Alaska Local Boundary Commission, I am very pleased to present this report of our activities for the calendar year, 1990.

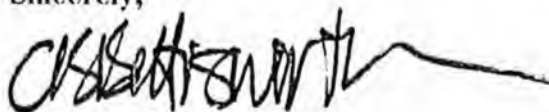
As you will find, it was a busy year for the Commission. We travelled from Interior Alaska to the Panhandle. We conducted 32 separate meetings along the way, dealing with all facets of municipal boundary change.

Our deliberations and rulings addressed the controversial and the non-controversial. Some actions were complex, others simple and straightforward. In all however, we welcomed the opportunity to serve the people of Alaska.

We encourage you to pay particular attention to the concerns expressed in our report on the status of regional government in Alaska (pages 21 - 22). The Commission's "Model Borough Boundaries Project", also discussed in the report, will clearly play a critical role in resolving many of these concerns. Therefore, we urge you to support our endeavors.

As noted in my December 31, 1990, letter to you, the Commission wishes to meet with the Senate Committee on Community and Regional Affairs in the early weeks of this legislative session. As with all past meetings, we look forward to discussing our year with you.

Sincerely,



Charles B. Bettisworth
Chair

BOARDS AND COMMISSIONS WITH COMPENSATION OTHER THAN STANDARD TRAVEL AND PER DIEM

Board/Commission Name	# Members	# Meetings	Compensation
Commercial Fisheries Entry Commission	3	120 days	Salaried
Commercial Fishing & Agricultural Bank, Bd. of Directors	7	7 days	\$250/day maximum
Board of Fisheries	7	4-6x; 40-85 days	\$150/day-regular meetings \$100/day-other meetings
Board of Game	7	2x (35-40 days)	\$150/day-regular meetings \$100/day-other meetings
Historical Records Advisory Board, State	9	3 days maximum	Federal funding
Alaska Housing Finance Corporation	7	16 days maximum	\$100/day + necessary expenses
Alaska Industrial Development & Export Authority	5	1x/month; most via telecon.	\$100/day
Medical Indemnity Corporation of Alaska	9	4x (15-30 days)	Necessary expenses
Alaska Municipal Bond Bank Authority	5	5 days total	Actual expenses
Occupational Safety & Health Review Board	3	Approx. 4x/yr.	\$50/day
Oil & Gas Conservation Commission	3	N/A	Salaried
State Board of Parole	5	4x/yr. minimum	Set by Governor
Permanent Fund Corporation, Board of Trustees	6	10+/yr. (40 days)	\$400/day
Board of Pharmacy	7	3x (9 days total)	Actual expenses
Alaska Public Offices Commission	5	5x (15 days max.)	\$50/day
Railroad Corporation, Board of Directors	7	4x/yr. minimum	\$400/day
Teachers' Retirement Board	9-13	2x (approx. 6 days)	Actual expenses
Public Employees Retirement Board	9-13	2x/yr.	4-8 physician members entitled to hourly compensation at rate consistent with their normal hourly earnings
Alaska Public Utilities Commission	5	Continuous	Salaried
Western Interstate Commission for Higher Education	3	2x (10 days max.)	Actual expenses
Alaska Workers' Compensation Board	11	125 days total	\$50/Day

SOURCE: 1991 Boards and Commissions Book, Office of the Governor

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Alaska Municipal Bond Bank Authority	5	5 days total	Actual expenses
Occupational Safety & Health Review Board	3	Approx. 4x/yr.	\$50/day
Oil & Gas Conservation Commission	3	N/A	Salaried
State Board of Parole	5	4x/yr. minimum	Set by Governor
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SOURCE: 1991 Boards and Commissions Book, Office of the Governor

STEVE FRANK
DISTRICT K
SEAT A

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 514

Alaska State Legislature




Senate

MEMBER
Finance Committee
Resources Committee
Legislative Council
Special Committee on Banking &
Economic Development

VICE-CHAIR
Community & Regional
Affairs Committee

TO: The Senate Community and Regional Affairs
Committee

FROM:  Senator Steve Frank

RE: Proposed Senate Bill "An act authorizing
compensation for members of the state Local
Boundary Commission, and providing for an
effective date."

DATE: January 30, 1991

The Local Boundary Commission is an agency whose activities have greatly expanded since its formation shortly after statehood. Its five members meet approximately 25 times a year, travel to remote locations, and donate much time to prepare for these meetings and for court litigation. However, the commission members do not receive any compensation beyond per diem and travel expenses.

Bills have been introduced in each of the past four legislative sessions to provide compensation to the commission members. Compensation bills were approved in the Senate in both 1988 and 1990, but the proposals were stalled in the House.

I am planning to re-introduce this proposal as a Community and Regional Affairs bill during this session, and I would welcome your comments.

The financial impact of such legislation is minimal. With 25 one-day meetings in 1990 with a compensation of \$150 per member per day, the total cost of the proposal would equal \$18,750.



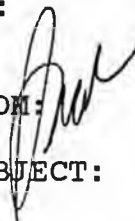
Alaska State Legislature

SENATE

Official Business

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

TO: The Senate Community and Regional Affairs
Committee

FROM:  Senator Steve Frank, Chair

SUBJECT: Proposed Senate Bill 96 "An act
authorizing compensation for members of
the state Local Boundary Commission, and
providing for an effective date."

DATE: February 14, 1991

Since Alaska achieved statehood, the number of its municipalities has increased more than fourfold (from about 30 to 164), and as a result the tasks of the Local Boundary Commission have expanded accordingly. This commission now meets approximately 25 times per year, often in remote locations throughout the state, and its members spend much time preparing for these meetings and for related court litigation. However, these members receive no compensation beyond per diem and travel expenses.

Members of boards and commissions with similar degrees of responsibility often receive compensation for their work. In fact, bills have been introduced in each of the past four legislative sessions to provide compensation to the LBC members. Such bills were approved in the Senate in both 1988 and 1990, but the proposals were stalled in the House.

The members of the LBC are very active and dedicated. However, given the extent of the commission's increased workload, compensation should be provided in order to ensure that qualified individuals continue to be attracted in the future.

The financial impact of such legislation is minimal. With 25 one-day meetings the average each year, a compensation of \$150 per member per day would bring the total cost to \$18,750.

WORK ORDER REQUEST FORM

W.O. [17] LS-0593

KEYWORDS: BOARDS AND COMMISSIONS ASSIGNED: Luckhaupt

BOUNDARIES

SALARIES/ALLOWANCES

REQUEST FOR: New Bill TAKEN BY: Imbsen

SUBJECT: Compensation for Local Boundary Com. Members

REQUESTED FOR: SC SCRA BY: Dave Skidmore PHONE: 465-3709

DELIVER TO: Sen. Frank, Cap 417

INSTRUCTIONS: Reintroduce CSSB 11(Fin) - 16th legislature, authorizing compensation for members of the state Local Boundary Commission. Change effective date.

OBTAIN	SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ _____ RETURN _____ _____ TO REQUESTOR APPROVED: <input checked="" type="checkbox"/> DIRECTOR, LEGAL SERVICES
--------	---

REVIEWED _____ IN <u>01/29/91</u> DUE _____ TYPED: Draft _____ Date _____ Final _____ Date _____ PROOFED _____ DELIVERED _____
--

SPECIAL INSTRUCTIONS to TYPING/PROOFING _____ _____ Request for FINAL
--

April 26, 1990

Testimony of Charles Bettisworth, Chairman
Local Boundary Commission

To: House Standing Committee on Community and
Regional Affairs
Chairman Eileen MacLean

I'd like to first thank you for the opportunity to provide my comments regarding Senate Bill 11 "An Act Authorizing Compensation for Members of the Local Boundary Commission".

The Commission supports this legislation for the following reasons:

The duties and responsibilities of the Commission have increased since the creation of the Local Boundary Commission 33 years ago. At that time, there were only 30 Municipal governments in the State and today there are 163 Boroughs and Cities.

The Commission, at the time of its creation, met a few times a year. Presently, we meet 15-20 times a year - often in remote communities under hazardous weather conditions.

The additional number of meetings do not account for the additional demands placed upon the Commission. Procedures which were simple years ago have become increasingly complex. With revisions adopted last year, Local Boundary Commission regulations make up more than 50 pages of the State code. Actions which used to be processed in 60 days, now may take as long as 9 months.

All of this means that substantially more time is required for Local Boundary Commission members to appropriately act on issues before it.

As an example of the increased workload which the Commission is currently enduring, we have recently completed evaluations of the various petitions for incorporation of the region north of Matanuska-Susitna and south of Fairbanks North Star Borough (Matanuska-Susitna Borough Annexation petition, Denali Borough Incorporation Petition, and the Valley's Borough Incorporation Petition). The Commission reviewed over 700 pages of documents. These documents included the original petitions, the Departmental reports and draft reports and hearing supplements. Additionally, the Commission held 6 sets of hearings in 6 communities over the period of four days. Finally, on a separate weekend, conducted a decisional meeting in Healy. We are looking at similar levels of activity for petitions submitted by the Fairbanks North Star Borough and the City and Borough of Juneau, all of which require action this year.

Post-It™ brand fax transmittal memo 7671 # of pages 2

To	Dena	From	CB Bettisworth
Co.		Co.	AKU LBC
Dept.		Phone #	275 5574
Fax #	405-2718	Fax #	275 7100

The Local Boundary Commission is a quasi-judicial commission. The issues before it are often controversial, over the years the decisions of the Commission have been challenged in court. As an example, the Alaska Supreme Court has rendered 9 decisions regarding the actions of the Commission. It is incumbent upon the Commission to act with care and thoroughness.

The Local Boundary Commission, along with the University of Alaska Board of Regents, is the only constitutionally-mandated State commission. Our duties and responsibilities are commensurate with those of many of the other State boards and commission which are compensated. It seems only appropriate that the Local Boundary Commission be compensated.

Finally, the impact of this bill is minimal. The current fiscal note attached provides for \$150/day per member for an estimated 25 meetings a year, equaling \$18,750 annual appropriation.

We very strongly urge you to approve Senate Bill 11 and we thank you for your consideration.

Sincerely,



Charles Bettisworth
Chairman

CBB.emk



Alaska State Legislature

SENATE

Official Business

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

TO: The Senate Community and Regional Affairs
Committee

FROM: Senator Steve Frank, Chair

RE: Proposed Senate Bill 96 "An act authorizing
compensation for members of the state Local
Boundary Commission, and providing for an
effective date."

DATE: February 8, 1991

Since Alaska achieved statehood, the number of its municipalities has increased more than fourfold (from about 30 to 164), and as a result the tasks of the Local Boundary Commission have expanded accordingly. This commission now meets approximately 25 times per year, often in remote locations throughout the state, and its members spend much time preparing for these meetings and for related court litigation. However, these members receive no compensation beyond per diem and travel expenses.

Members of boards and commissions with similar degrees of responsibility often receive compensation for their work. In fact, bills have been introduced in each of the past four legislative sessions to provide compensation to the LBC members. Such bills were approved in the Senate in both 1988 and 1990, but the proposals were stalled in the House.

The members of the LBC are very active and dedicated. However, given the extent of the commission's increased workload, compensation should be provided in order to ensure that qualified individuals continue to be attracted in the future.

The financial impact of such legislation is minimal. With 25 one-day meetings the average each year, a compensation of \$150 per member per day would bring the total cost to \$18,750.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

MEMORANDUM

DATE: February 28, 1991

TO: Senator Pat Pourchot, Co-Chair
Senate Finance Committee

FROM: Karen Rehfeld
Fiscal Analyst *Karen*

SUBJ: Leave for State Employees serving on Boards/Commissions

During the committee's review of SB 96 authorizing compensation for members of the Local Boundary Commission, there was discussion concerning state employees serving on state boards and commissions and whether they would be eligible to receive compensation in addition to their salary. According to the Division of Personnel, a state employee away from work for any activity not related to the performance of their job is required to take leave. Leave Rules are found in Title 2, Chapter 8 of the Alaska Administrative Code.

There are no rules, policies or statutes that address the specific concern of employee leave and compensation for serving on state boards and commissions. Alaska Statutes 39.20, *Compensation and Allowances*, includes travel, per diem and leave requirements for state employees including a prohibition from receiving per diem when meeting in their home community (AS 39.20.185). If there is interest in including language prohibiting state employees who serve on boards and commissions from receiving compensation in addition to their salary, the committee may want to address this under the broader statutes in Title 39 as well as under the Local Boundary Commission.

Alaska Statute 44.47.565 establishes the Local Boundary Commission of five members appointed by the governor; one from each judicial district and one from the state at large. Additional qualifications for Local Boundary Commission members are listed in AS 39.05.060.

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

WALTER J. HICKEL, GOVERNOR

949 EAST 36TH AVENUE, SUITE 404
ANCHORAGE, ALASKA 99508
PHONE: (907) 531-8586

February 14, 1991

The Honorable Steve Frank
Chairman
Senate Community and
Regional Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

We respectfully request that you consider our comments on Senate Bill 96.

The Alaska Local Boundary Commission is a volunteer body dealing with numerous controversial and complex issues on a frequent basis. Typically, the Commission meets 25 times per year, and renders numerous decisions. Many of the Commission's meetings involve public hearings in remote locations, often under personally inconvenient and arduous circumstances.

As you know, the Commission is responsible for every municipal boundary change, incorporation and dissolution. Today, the Commission's regulations comprise nearly 50 pages of the Alaska Administrative Code. Given the controversial nature of issues brought before the Commission, decisions of the Commission are often challenged in court. The ever present threat of legal challenge demands that Commission members spend many days preparing for a single meeting.

Obviously, today's Commission members must sustain a level of expertise, commitment and sacrifice beyond that which may be reasonably expected of volunteers. Commission members often suffer financial consequences as a result of their service, also. Members are often compelled to take unpaid leave from their livelihoods to participate in Commission activities.

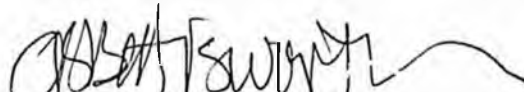
Last year, legislation which would have provided compensation for members of the Local Boundary Commission at a rate of \$150 per day died in the House Rules Committee at the end of the session. We hope that the issue is given more attention this year.

The Honorable Steve Frank
February 14, 1991
Page Two

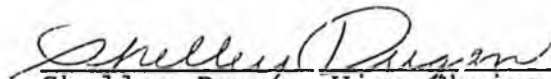
I respectfully urge the Committee to take favorable action on
SB 96.

Sincerely,

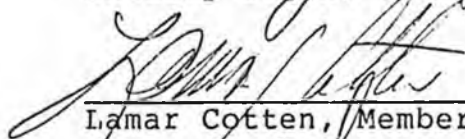
ALASKA LOCAL BOUNDARY COMMISSION



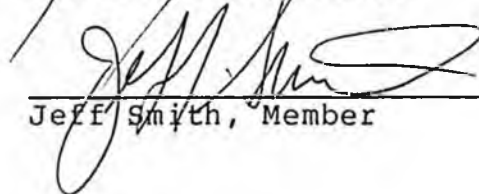
C.B. Bettisworth, Chairman



Shelley Dugan, Vice-Chairman



Lamar Cotten, Member



Jeff Smith, Member

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 96

Revision Date: _____

Department Affected: Community & Regional Affairs

Title: "An Act..compensation for members of the State Local Boundary Comm.."

BRU: Local Government Assistance

Component: Local Boundary Commission

Sponsor: Senate C&RA

Requestor: Senate C&RA

COMPONENT SERIAL NO.

0	6	7	4
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	18.75	18.75	18.75	18.75	18.75	18.75
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	18.75	18.75	18.75	18.75	18.75	18.75

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	18.75	18.75	18.75	18.75	18.75	18.75
FEDERAL FUNDS						
OTHER						
TOTAL	18.75	18.75	18.75	18.75	18.75	18.75

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: No fiscal impact in FY 91

ANALYSIS: (Attach a separate page if necessary.)

This fiscal note assumes 25 days of meetings per year with compensation at \$150 per day per member (5 members).

Prepared By: Remond Hendriksen Phone: 465-4708

Division: Administrative Services Date: 2/13/91

Approved Commissioner: EC, Wally

Agency: Community & Regional Affairs Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**CS FOR SENATE BILL NO. 96 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

**1 "An Act authorizing compensation for members of the state Local Boundary Commission;
2 and providing for an effective date."**

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

4 * Section 1. AS 44.47.579 is repealed and reenacted to read:

**5 Sec. 44.47.579. COMPENSATION AND EXPENSES. A member of the Local Boundary
6 Commission is entitled to compensation at a rate of \$150 for each day the member is attending
7 a meeting of the commission. A member who is an employee of the state or a local government
8 is entitled to the \$150 per day compensation only for a day on which the member takes annual
9 leave or leave without pay from the state or local government position. A member is also
10 entitled to receive per diem and travel expenses authorized for members of boards and
11 commissions under AS 39.20.180.**

12 * Sec. 2. This Act takes effect July 1, 1991.

Alaska State Legislature

Al Adams
District L



Official Business

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

March 4, 1991

The Honorable Walter Hickel
Governor
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Governor Hickel:

This is to let you know that I share your concern with economic problems that surround the various state boards and commissions and to offer a fix.


I see several issues at hand. One has to do with the sheer number of boards and commissions. Another has to do with their costs. A facet of their costs is the vast disparity in compensation for expenses, time and expertise. This latter notion has become particularly pointed with legislation again before the Seventeenth Legislature to provide salaries or elevated salaries to certain boards. Salary and honorarium has become a matter of some boards convincing legislators that its activities warrant a salary. Amounts range from \$50 to \$400 per meeting. I have enclosed for your review summaries of the various boards and compensation allowances. Clearly, there is no constructive correlation between salary, time involved or expertise required.

Several policy calls need to be made to address these problems. Some boards should be eliminated and some should be joined together. A policy for travel, per diem, salary and honorarium needs to be established. A policy is required on whether state employees or those who work for political subdivisions of the state should take leave without pay for meeting attendance.

I believe a short term task force would be well suited to investigate the possibilities of board elimination and fusion, how to divert "double dipping" of state employees serving on boards and recommend appropriate compensation. Since the establishment of such standards would involve multiple statutory changes it would seem appropriate that the task force could have answers to place before the Second Session of the Seventeenth Legislature.

I hope you find these ideas useful.

Sincerely,


Senator Al Adams

BOARDS AND COMMISSIONS WITH COMPENSATION OTHER THAN STANDARD TRAVEL AND PER DIEM

-10/1/82

Board/Commission Name	# Members	# Meetings	Compensation
Commercial Fisheries Entry Commission	3	120 days	Salaried
Commercial Fishing & Agricultural Bank, Bd. of Directors	7	7 days	\$250/day maximum
Board of Fisheries	7	4-6x; 40-85 days	\$150/day-regular meetings \$100/day-other meetings
Board of Game	7	2x (35-40 days)	\$150/day-regular meetings \$100/day-other meetings
Historical Records Advisory Board, State	9	3 days maximum	Federal funding
Alaska Housing Finance Corporation	7	16 days maximum	\$100/day + necessary expenses
Alaska Industrial Development & Export Authority	5	1x/month; most via telecon.	\$100/day
Medical Indemnity Corporation of Alaska	9	4x (15-30 days)	Necessary expenses
Alaska Municipal Bond Bank Authority	5	5 days total	Actual expenses
Occupational Safety & Health Review Board	3	Approx. 4x/yr.	\$50/day
Oil & Gas Conservation Commission	3	N/A	Salaried
State Board of Parole	5	4x/yr. minimum	Set by Governor
Permanent Fund Corporation, Board of Trustees	6	10+/yr. (40 days)	\$400/day
Board of Pharmacy	7	3x (9 days total)	Actual expenses
Alaska Public Offices Commission	5	5x (15 days max.)	\$50/day
Railroad Corporation, Board of Directors	7	4x/yr. minimum	\$400/day
Teachers' Retirement Board	9-13	2x (approx. 6 days)	Actual expenses
Public Employees Retirement Board	9-13	2x/yr.	4-8 physician members entitled to hourly compensation at rate consistent with their normal hourly earnings
Alaska Public Utilities Commission	5	Continuous	Salaried
Western Interstate Commission for Higher Education	3	2x (10 days max.)	Actual expenses
Alaska Workers' Compensation Board	11	125 days total	\$50/Day

SOURCE: 1991 Boards and Commissions Book, Office of the Governor

270/1000 11/1/82

11-200-1000

BOARDS AND COMMISSIONS
WITH NO COMPENSATION OTHER THAN TRAVEL AND PER DIEM

BY SENATOR ADAMS

3.01.91

SOURCE: 1991 BOARDS AND COMMISSIONS BOOK

BOARD	MEETING DAYS PER YEAR
PUB ACCOUNTANCY	12 DAYS TOTAL
AG REV. LOAN FUND BOARD	25 DAYS
ALCOHOL BEVERAGE CONTROL	11-14 DAYS
ALCOHOLISM AND DRUG ABUSE	12 DAYS
AMATEUR SPORTS AUTHORITY	AT LEAST QUARTERLY
ARCHITECTS, ENGINEERS, AND LAND SURVEYORS	4 MEETINGS
ALASKA COUNCIL ON THE ARTS	12-15 DAYS MAXIMUM
ASSESSMENT REVIEW BOARD	2-3 DAYS
ATHLETIC COMMISSION	1 MTG/YEAR
BALD EAGLE PRESERVE ADVISORY COUNCIL	7 DAYS
BOARD OF GOVERNORS ALASKA BAR	10 DAYS
BARBERS AND HAIRDRESSERS	"AS OFTEN AS NECESSARY"
BIG GAME COMMERCIAL SERVICES	14 DAYS MAX
BLOCK GRANTS ADVISORY COMMITTEE	4-6 DAYS
PUBLIC BROADCASTING	15 DAYS
CHILDREN AND YOUTH	4 MTGS PER YEAR
CHIROPRACTIC EXAMINERS	6 DAYS MAX
CLEMENCY ADVISORY COMMITTEE	APPROX 4 MEETINGS PER YEAR
CLINICAL SOCIAL WORKERS	1 MEETING PER YEAR
COASTAL POLICY COUNCIL	10 DAYS
COMPENSATION COMMISSION/STATE OFFICERS	EVERY OTHER YEAR
CORRECTIONAL INDUSTRIES COMMISSION	4 MTGS PER YEAR
DENTAL EXAMINERS	4 MTGS PER YEAR

BOARDS AND COMMISSIONS WITH NO COMPENSATION OTHER THAN TRAVEL/PER DIEM

DISPENSING OPTICIANS	4 DAYS
DOMESTIC VIOLENCE AND SEXUAL ASSAULT	16 DAYS MAX
BOARD OF EDUCATION	30 DAYS MAX
ELECTICAL EXAMINERS	1 MTG PER YEAR
EMERGENCY MEDICAL SERVICES	6 DAYS MAXIMUM
EMERGENCY RESPONSE COMMISSION	4 MTGS PER YEAR
EMPLOYMENT OF PEOPLE W/ DISABILITIES	14 DAYS MAX
EMPLOYMENT SECURITY ADVISORY COUNCIL	8 DAYS MAX
ALASKA ENERGY AUTHORITY	12 MTGS PER YEAR/ 48 DAYS MAX
ADVISORY COMMISSION ON FEDERAL AREAS	AT LEAST 2 MTGS PER YEAR
FISHERMENS FUND ADVISORY AND APPEALS COUNCIL	10 DAYS MAX
FORESTRY	8 DAYS
GEOGRAPHIC BOARD	9 DAYS
HANDICAPPED AND GIFTED	15 DAYS
HAZARDOUS SUBSTANCE SPILL TECHNOLOGY	AT CALL OF CHAIR
HEALTH CARE TASK FORCE	AS SCHEDULED W/ DH&SS
HISTORIC SITES ADVISORY COMMITTEE	8 DAYS MAX
HISTORICAL COMMISSION	16 DAYS MAX
HOUSING AUTHORITY	12 DAYS
HUMAN RIGHTS	8-10 DAYS
HUMANITIES FORUM	8-10 DAYS
INCENTIVES AWARD	AS NEC
JOB TRAINING CCUNCIL	AS NEC
JUDICIAL CONDUCT	4-6 DAYS
JUDICIAL COUNCIL	4-8 DAYS
JUVENILE JUSTICE AND FAMILY SERVICES	4 DAYS
LABOR RELATIONS AGENCY	15 TO 20 TIMES PER YEAR
LIBRARIES	5-6 DAY MAX
MARINE PILOTS	1 MTG PER YEAR
MECHANICAL EXAMINERS	2-3 MTGS PER YEAR
MEDICAID RATE COMMISSION	10 TIMES PER YEAR
MEDICAL BOARD	4 TIMES PER YEAR

BOARDS AND COMMISSIONS WITH NO COMPENSATION OTHER THAN TRAVEL/PER DIEM

MEDICAL INDEMNITY	15-30 DAY MAXIMUM
MENTAL HEALTH BOARD	12 DAYS
MENTAL HEALTH TRUST	4 MTGS PER YEAR
MINERALS COMMISSION	AS CALLED
MUNICIPAL BOND BANK	5 DAYS
N. PACIFIC AND BERING SEAS FISHERIES	4-5 MTGS PER YEAR
NURSING	4 MTGS PER YEAR
NURSING HOME ADMINISTRATORS	SEMI-ANNUALLY
OLDER ALASKANS COMMISSION	12 DAYS MAXIMUM
OPTOMETRY	4 DAYS
PACIFIC MARINE FISHERIES	6 DAYS MAX
PACIFIC SALMON COMMISSION	3 7-10 DAY MTGS
PERMANENCY PLANNING	2 MTGS PER YEAR
PERSONNEL BOARD	4 DAYS
PHARMACY	9 DAYS
PHYSICAL THERAPY AND OCC THERAPY	2 MTGS PER YEAR
PIONEERS HOMES ADVISORY BOARD	15-16 DAYS
POLICE STANDARDS COUNCIL	8 DAYS MAXIMUM
POST SECONDARY EDUCATION	10 DAYS MAX
PRIVATE INDUSTRY COUNCIL	8 DAYS MAX
PROFESSIONAL TEACHING PRACTICES	3-4 MTGS PER YEAR, 2-5 DAYS EACH
PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE	3 MTGS PER YEAR, 2 DAYS
REAL ESTATE APPRAISERS	AS NEEDED
REAL ESTATE COMMISSION	3-4 TIMES/YEAR, 2 DAYS EACH
RECREATION RIVERS	NO COMP MEET 4-6 TIMES PER YEAR
BOARD OF REGENTS	7 TIMES PER YEAR
RATNET	1-2 MTGS PER YEAR/ 1-2 DAYS EACH
SAFETY ADVISORY COUNCIL	6 DAYS
SCIENCE AND ENGINEERING ADVISORY	AS CALLED
SEAFOOD MARKETING	8-10 DAYS
SENTENCING COMMISSION	AS CALLED
SOIL AND WATER CONSERVATION	4 DAYS MINIMUM

BOARDS AND COMMISSIONS WITH NO COMPENSATION OTHER THAN TRAVEL/PER DIEM

STORAGE TANK ASSISTANCE	3 DAYS
STUDENT LOAN	AT CALL OF CHAIR
SUBSISTENCE RESOURCE COMMISSION	2 MTGS PER YEAR
SUBSISTENCE USE OF FISH AND GAME	NOT YET SET
TELECOMMUNICATIONS INFORMATION COUNCIL	4 TIMES PER YEAR
TOURISM MARKETING COUNCIL	4 MTGS PER YEAR
TRANS-ALASKA PIPELINE LIABILITY FUND	ONCE EVERY 6 MONTHS
VETINARY EXAMINERS	3 TIMES PER YEAR
VIOLENT CRIMES COMPENSATION COMMISSION	4-5 MTGS AND 10 HEARINGS PER EYAR
VOCATIONAL AND CAREER EDUCATION	8 DAYS
WATER AND WASTEWATER WORKS	1-2 TIMES PER YEAR/4-5 DAY MA
WATER RESOURCES	2 TIMES PER YEAR/ 1-3 DAYS EACH
WESTERN INTERSTATE FOR HIGHER ED	10 DAYS MAX
WOMENS COMMISSION	AT CALL
WOOD-TIKCHIK STATE PARK	8 DAYS
YUKON RIVER DELEGATION	2 MTGS PER YEAR

agree that some change is inevitable. These Alaskans, who sometimes benefit most from the inequities in funding for schools and other services, readily admit the shortcomings of the system.

There are no easy answers to the problems associated with the current system of regional service delivery in Alaska. This is witnessed by the rather haphazard evolution of regional government in Alaska during 32 years of statehood. And while many residents of the unorganized borough may express a preference to pay taxes in support of their schools rather than form boroughs, a method of taxation which is easy to administer, efficient, equitable and capable of generating a suitable contribution may be elusive.

Thus, it is time that political leaders and public policy makers carefully examine the current system of service delivery. System inequities have stood for decades in Alaska. This is understandable when one considers that funding formulae in place today were designed for regional governments that were formed 25-30 years ago. Political and economic changes have occurred during this time which require that the formulae be re-examined by local and state officials. The Commission has witnessed the gradual awakening of the public to the current dilemma. In response, it has passed a resolution calling for a comprehensive examination of state funding formulae to promote equity among regions and to eliminate disincentives for borough incorporation and annexation. A copy is appended to this report as Exhibit B. The Commission would like to see the current legislature begin dealing with the situation.

In each of the past four legislative sessions, bills have been introduced which would have provided compensation to the Commission at the rate of \$150 per day for each day the member attends a meeting. Compensation bills were approved by the Senate in 1988 and 1990, however, the measures lagged in committees in the House. In 1990, the bill died in House Rules.

It is evident from the activities profiled in this report that the Local Boundary Commission is an extremely active volunteer body. It is quite different from the original Commission who first gathered shortly after statehood. In fact, the state of Alaska was quite different then. When the Commission was first formed, there were

from Alaska Local
Boundary Commission
Annual Report 1990

Compensation
for the
Commission

only about 30 municipal governments. Understandably, the Commission met only a few times each year and then made only a few decisions. By contrast, there are 164 municipalities today. The current Commission typically meets 25 times a year, and renders many more decisions. When it was first formed, the Commission traveled little. Today, as this report shows, the Commission can be found in any community from Barrow to Ketchikan. Frequently this travel occurs under hazardous weather conditions.

The increase in the number of municipal governments and the number of meetings or extent of travel alone do not fully account for the additional demands placed on the Commission. Procedures which were simple thirty years ago have grown much more complex. For example, the Commission operated without regulations until it was directed to create them by a ruling of the State Supreme Court in 1971. Today, the Commission's regulations take up more than 50 pages in the Alaska Administrative Code. Procedural responsibilities have further increased with the relatively recent requirement that the U.S. Justice Department review and approve every municipal boundary change. This includes incorporations, dissolutions and annexations.

Compounding the duties of the Commission is the tendency of the American public to litigate disputes. Given the typically controversial nature of the issues brought before the Commission, it is not surprising that decisions of the Commission are often challenged in court. They have in fact been the subject of six landmark rulings by the State Supreme Court. A host of other Supreme and Superior Court decisions affect each and every action of the Commission. The ever present threat of legal challenge demands that Commission members spend many days preparing for a single meeting. For example, the material considered by the LBC in the competing boundary actions (Denali Borough and Valleys Borough incorporations and Mat-Su Borough annexation) consisted of nearly 1,200 pages of text and weighed over four pounds.

Obviously, today's Commission members must maintain a level of expertise and perseverance beyond that to be expected of volunteers. Financial compensation is a modest request. In fact, the fiscal impact of the most recently proposed compensation would be minimal. Based upon 25 one-day meetings per year with compensation of \$150 per day, the total compensation to the Commission would amount to \$18,750.

With these considerations in mind, the Commission believes that it is reasonable and responsible to raise the issue of compensation once again. If the State of Alaska expects to draw five-year commitments from qualified citizens who donate hundreds of hours every year (often at considerable loss of personal income), the State must recognize their value. Keep in mind that some members of the Commission have served without compensation for as long as fifteen years. Given the demands of time, travel and political pressures, it may grow increasingly difficult to attract members who are willing to serve without compensation.

S B

1 1 9

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/13/91

FURTHER: Finance

Date of 5-Day Notice: 2/27/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/6/92

C&RA Committee considered SB 119

Exemption from taxes and assessments of regional electrical authorities.

and recommended:

- replace with _____ CS SB 119 (CRA) same title
- attached amendment(s) new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) CRA

zero fiscal note(s)

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Do Pass
Chair: Signature and Recommendation

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

150 THIRD STREET
JUNEAU, ALASKA 99801-1291
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

February 27, 1992

POSITION PAPER

RE: SB 119

SPONSOR: Senator Duncan

Program Effects of Bill:

SB 119 proposes to make permanent a 20 year property tax exemption adopted in 1975. This exemption applies to the property of regional electrical authorities located within property taxing jurisdictions across the state. As nearly as we can determine, there is only one regional electrical authority in the state whose property is located within a property taxing jurisdiction. For this reason, this proposal would have a very minimal effect on municipal governments.

Comments:

The Department of Community and Regional Affairs takes no position on the proposed bill.

Ed. Blatchford

Edgar Blatchford, Commissioner



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:

VICE CHAIR –
FINANCE

VICE CHAIR –
STATE AFFAIRS

RULES

BUDGET & AUDIT

ETHICS REFORM

MEMORANDUM

TO: Senator Steve Frank, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Jim Duncan

DATE: February 7, 1992

SUBJECT: Hearing for Senate Bill 119.

I request that you schedule Senate Bill 119, "relating to the exemption from taxes and assessments of regional electrical authorities," for a hearing before the Senate Community and Regional Affairs Committee at your earliest convenience.

SB 119 will allow for the continuation of the tax exemptions available to regional electrical authorities under AS 18.57.030. These electrical authorities, the Alaska Village Electrical Cooperative and Tlingit-Haida Regional Electrical Authority were created as political subdivisions and as such are tax exempt entities. This change in the statute is necessary to clean up the enabling statute which was enacted in 1975. The effects of regionalization for such activities was unknown at the time, as a result the exemption is to expire in 1995. The successes of the existing authorities indicates that this limitation should be eliminated.

I thank you in advance for your favorable consideration of this request.

Tax Exemption For Regional Electrical Authorities

The regional electrical authority structure was authorized by the Legislature in 1975 as a potential solution for rural electrical energy problems. The structure was designed to allow rural communities to jointly address the complex task of financing, constructing, operating and maintaining electrical systems in rural Alaska. Entities formed under the legislation would enjoy improved economies of scale, reduced duplication of effort, lower fixed costs and the ability to hire and retain professional expertise. A variety of financing vehicles were enabled, including bonding, state and federal loans, and grants.

Electrical authorities were meant to be specialized organizations whose sole purpose was to provide adequate, safe and reliable electrical service in the rural areas. An important distinction was status as a political subdivision of the state, because that provided the opportunity to use tax-exempt bonding as a financing vehicle and because it meant freedom from taxation by other political subdivisions. A 20-year sunset provision on tax exemption was included in the 1975 legislation as a check on any problems that might arise as experience was gained with the electrical authority structure.

In 1977 Tlingit Haida Regional Electrical Authority (THREA) was formed as the first, and thus far only, active regional electrical authority in Alaska. Over the past 15 years, THREA has proven to be a success. Rates have steadily declined and Power Cost Equalization (PCE) assistance has been reduced by a combination of increased efficiency and decreased fixed costs. THREA serves as a model for joint action by rural communities in providing their residents with essential electric service.

There are three other types of electric utilities in Alaska: Private for-profit, electric cooperatives and municipal. The private systems pay the same taxes as any private business. Cooperatives are exempt from taxes except for a gross-receipts tax of \$0.0005/kwh which is paid to the state. Municipal systems pay no taxes unless they are assessed by the individual municipalities. Anchorage, for instance, has a "municipal utility service assessment" based on net book value of the utility systems there. Most municipal systems pay no taxes except for collection of sales taxes. THREA collects and pays sales taxes to the individual communities it serves.

The success of THREA, a not-for-profit entity, is due in part to the tax exemption which is due to expire in 1995. If THREA is to continue its success, and if new electrical authorities are to be successful, it is important to preserve the tax exemption as provided in SB 119. Moreover, a tax on electrical authorities would become part of operating costs that are now being offset by PCE.

FISCAL NOTE

BILL NO. SB 119

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: "...Act relating to exemption from taxes and assessments...regional electrical authorities."
 Sponsor: Senator Duncan
 Requestor: (S) CRA

Department Affected: Community and Regional Affairs
 BRU: _____
 Component: _____
 COMPONENT SERIAL NO.

0	0	0	0
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Changes in CS SB 119 (CRA)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.
3/5/92 [Signature]
 date Comte Aide (initial)

Prepared By: Remond Henderson
 Division: Administrative Services Division

Phone: 465-4708
 Date: 3/2/92

Approved by Commissioner: E. RUTY
 Agency: Department of Community and Regional Affairs

Date: 3-2-92/



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100

(907) 465-4766

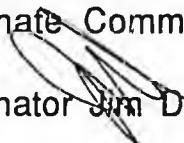
COMMITTEES:

VICE CHAIR –
FINANCE
VICE CHAIR –
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

1991

TO: Senator Steve Frank, Chairman
Senate Community and Regional Affairs Committee

FROM:  Senator Jim Duncan

DATE: April 22, 1991

SUBJECT: Hearing schedule for Senate Bill 119.

I would like to request that you schedule Senate Bill 119, "relating to the exemption from taxes and assessments of regional electrical authorities," for a hearing at your earliest convenience.

SB 119 allows for the continuation of the tax exemptions allowed for regional electrical authorities under AS 18.57.030. These electrical authorities, Alaska Village Electrical Cooperative and Tlingit-Haida Regional Electrical Authority were created as political subdivisions and as such are tax exempt entities. This change in the statute is necessary to clean up the enabling statute which was enacted in 1975. The effects of regionalization for such activities was unknown at that time as a result the exemption is to expire in 1995. The successes of the existing authorities indicates that this limitation should be eliminated.

I thank you in advance for your favorable consideration of this request.

SB

120

STATE OF ALASKA
THE LEGISLATURE

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

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

SB 120

Senate CE RA

2/28/91

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/13/91

FURTHER: Judiciary

Date of 5-Day Notice: 2/21/91
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

C&RA Committee considered SB 120

Immunity of a municipal ombudsman and staff and privilege of a municipal ombudsman and staff not to testify about certain matters.

and recommended:

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

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____
Dept. C&RA

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Arthur Sturgis
Irue Pearce

Arthur Sturgis
Chair: Signature and Recommendation



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT DCRA	DIVISION MRAD	BILL NUMBER SB 120	SPONSOR Senator Collins
SHORT TITLE OF BILL An Act relating to immunity of a municipal ombudsman and staff...			
DEPARTMENT POSITION The department has no position.			
PREPARED BY Patrick Poland, Deputy Director	DATE 2/19/91	COMMISSIONER'S SIGNATURE <i>E. J. R. [Signature]</i>	DATE 2-20-91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL None	CONSTITUENT GROUP(S) AFFECTED BY BILL Unknown
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown
FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL NOTE ATTACHED	

BACKGROUND/LEGISLATIVE INTENT

Very few other states, if any, give total immunity to their ombudsmen.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill would make a municipal ombudsman and staff immune from legal suit over actions taken on behalf of the municipality. To qualify for immunity, the action must be one that falls within the parameters of the charter or ordinance authorizing the office of municipal ombudsman.

The bill also exempts a municipal ombudsman from having to testify in court regarding any action taken as a municipal ombudsman.

Since this bill has no direct impact on the department, we are not taking an active position for or against the bill. The department does feel that public employees in general should be accountable for their actions. We would note also that, presently, firemen are the only municipal employees specifically cited in statute as being exempt from personal suit (AS 09.65.070(c)). All other municipal employees, from grader operators to policemen, are subject to the provision of AS 09.65.070.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 120

Revision Date: _____ Department Affected: Community & Regional Affairs
 Title: "An Act relating to immunity of a municipal ombudsman and staff..." BRU: Local Government Assistance
 Component: Training and Development
 Sponsor: Collins, Pearce
 Requestor: _____ COMPONENT SERIAL NO.

	6	7	2
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson Remond Henderson Phone: 465-4708
 Division: Administrative Services Director Date: 2/19/91
 Approved by Commissioner: Edgar Blatchford Edgar Blatchford
 Agency: Community & Regional Affairs Date: 2-17-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



Official Business

Alaska State Legislature

SENATE

SENATOR VIRGINIA COLLINS

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

SPONSOR STATEMENT

Senate Bill 120

Senate Bill 120, "An Act relating to immunity of a municipal ombudsman and staff and privilege of a municipal ombudsman and staff not to testify about certain matters."

This bill would extend to the municipal ombudsman the same immunity and the same privilege not to testify about certain matters that are given to the Office of the State Ombudsman. Similar provisions are also granted to the Long Term Care Ombudsman within the Older Alaskans Commission.

There is currently only one municipal ombudsman in Alaska. Several communities have contracted with the state ombudsman to provide ombudsman services to the respective communities. Those contractual ombudsmen are protected under the statutes for the State Ombudsman's Office. Yet the one municipal ombudsman, performing the same function as those whose services have been contracted, does not have the same protection.

Due to the nature of the work of an ombudsman, this immunity and privilege not to testify has been shown in Alaska and in other states to be beneficial and, in many cases, necessary to the performance of the duties of the office.

Immunity from civil action and the privilege not to testify are two elements commonly found in model ombudsman legislation such as that proposed by the International Bar Association's Ombudsman Committee, the American Bar Association, and the Harvard Journal on Legislation.

Senate Bill 120 is supported by the Office of the State Ombudsman as well as the Office of the Ombudsman for the Municipality of Anchorage. There is a zero fiscal note.

Thank you for your time. Your support of Senate Bill 120 would be appreciated.

Position Paper

ANCHORAGE MUNICIPAL OMBUDSMAN

**AN ACT TO PROVIDE MUNICIPAL OMBUDSMEN IMMUNITY AND
PRIVILEGE NOT TO TESTIFY (SECTION 09.65.075)**

A. Confidentiality / Privilege Not To Testify

The ability for an ombudsman to effectively investigate complaints depends primarily on the ability to determine the facts surrounding the issue. Common among nearly all ombudsman offices is their authority to access essentially all information within their jurisdiction. Along with this power comes the requirement to protect information received which is confidential or privileged by law. Similarly, in an effort to ensure that an ombudsman is provided the most factual information possible from complainants or witnesses, their confidentiality is protected.

In order for an ombudsman to guarantee that these confidentiality laws are not violated and that citizens can continue to enjoy their right to speak freely to their ombudsmen, it is necessary to establish the privilege for an ombudsman and their staff not to testify in court regarding matters involving an ombudsman's official duties.

There is precedence for establishing this privilege not to testify for ombudsmen both on a national and international level. The State of Alaska specifically restricts the Ombudsman from testifying (Sec. 24.55.260); and the State of Nebraska prevents the Ombudsman from being required to testify or produce evidence (Sec. 81-8,253).

Common among nearly every classical ombudsman office is the provision to protect the confidentiality of certain individuals and information. The inclusion of specific language within a statute provides further clarification that an ombudsman should not be required to divulge information, or the identity of a complainant or a witness, which was received with the expectation of privacy. Case law is supportive of this protection at the state level, with Alaska contributing toward the courts' respect for the provisions contained within ombudsman statutes. Notwithstanding the limitations of states' statutes, the U. S. federal courts have exhibited considerable efforts in respecting the confidentiality provisions of state ombudsmen.

B. Immunity From Civil Action

The structure of the classic ombudsman is designed to ensure that the ombudsman be provided the freedom to investigate any act or failure to act by an agency, official, or public employee with only specific exceptions. One of the essential provisions which the American Bar Association recommended in its 1969 Resolution promoting the establishment of ombudsmen within state and local governments was to provide immunity for ombudsmen and their staff from civil liability on account of official actions. Apparently the potential was recognized for an ombudsman to hesitate to investigate certain matters, or reserve criticism of agencies and officials, based on a threat or fear of civil action being brought as a result of carrying out their official duties.

The Immunity provision has been previously established at the local level as exemplified in the Charter of the City of Detroit (Sec. 4-315). The majority of classic ombudsman offices at state, provincial and national levels are provided protection from civil suits according to survey results from the International Ombudsman Institute. Many of these offices are protected from criminal suits as well; Hawaii and Puerto Rico among them. The Hawaii State Ombudsman also has jurisdiction over local governmental units.

SUMMARY

The proposed amendments essentially allow duly established municipal ombudsmen the same protection from civil suits, and the privilege not to testify, as afforded our State Ombudsman. The benefits of these provisions within the Alaska State Ombudsman Statute have already reached certain local governments in this State by virtue of their contracting with the State Ombudsman for ombudsman services (i.e. Juneau). It would be consistent to include similar provisions as proposed for municipal ombudsmen.

Passage will ensure that municipal ombudsmen in this State carry out their duties as prescribed by law without reservation; and provide citizens who wish to report matters to an Ombudsman, or witnesses coming before an Ombudsman, the confidentiality to which they are entitled.

The appendices, including model statutes from the American Bar Association and the Harvard Journal on Legislation, provide significant justification for passage of this legislation.

Prepared by:
Michael P. Mills
Municipal Ombudsman, Anchorage
(Past President, U. S. Association of Ombudsmen)

Appendix

- A. University of Miami Law Review (Spring 1975)
American Bar Association Model Ombudsman Statute for State Governments
Q. Section 17. Ombudsman's Immunities and C. Section 3. Definitions
Comment by Bernard Frank, Chairman, Ombudsman Committee, ABA.

- B. American Bar Association Model Ombudsman Statute *Background Summary*
Ombudsman Committee Chairman Bernard Frank.

- C. American Bar Association Resolution (1969).
Dealing with Establishment of an Ombudsman

- D. Harvard Journal on Legislation (June 1965)
A State Statute to Create the Office of Ombudsman
Sections 603, 604 & 605, and Comment.

- E. International Bar Association, Ombudsman Committee Letter (November 1978)
Chairman Bernard Frank to MOA Ombudsman, Karla L. Forsythe
Necessity of State Statute for Municipal Ombudsman Protection.

- F. Anchorage Municipal Attorney Memorandum (July 1990)
Lack of Privilege Not to Testify.

- G. Alaska Statute: *Sec. 24.55.240-260, Office of The Ombudsman*

- H. Alaska Statute: *Sec. 44.21.231, 235 & 236, Long Term Care Ombudsman*

- I. International Ombudsman Institute Report (July 1986)
Court Cases of Special Interest to the Ombudsman Institution
(Excerpts from United States court cases)

university of miami law review

VOLUME 29

SPRING 1975

NUMBER 3

STATE OMBUDSMAN LEGISLATION IN THE UNITED STATES

BERNARD FRANK*

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I. INTRODUCTION

Year after year, Ombudsman proposals have been introduced in a majority of the state legislatures in the United States.¹ Legislation has been passed for state-wide Ombudsmen in Hawaii, Nebraska, Iowa, and Alaska.² The word "Ombudsman," Swedish in origin, means ...

1975]

STATE OMBUDSMAN LEGISLATION

439

Q. Section 17. Ombudsman's Immunities

(a) NO PROCEEDING, CONCLUSION, RECOMMENDATION, OR REPORT OF THE OMBUDSMAN OR MEMBER OF HIS STAFF SHALL BE REVIEWABLE IN ANY COURT;

(b) THE OMBUDSMAN AND HIS STAFF SHALL HAVE THE SAME IMMUNITIES FROM CIVIL AND CRIMINAL LIABILITIES AS A JUDGE OF THIS STATE.

(c) THE OMBUDSMAN AND HIS STAFF SHALL NOT BE COMPELLED TO TESTIFY OR PRODUCE EVIDENCE IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING WITH RESPECT TO ANY MATTER INVOLVING THE EXERCISE OF THEIR OFFICIAL DUTIES EXCEPT AS MAY BE NECESSARY TO ENFORCE THIS ACT.

ABA
MODEL
STATUTE

COMMENT. (a) Sub-section (a) precludes judicial review of the Ombudsman's work, unless, of course, he has violated the Act.

(b) This sub-section avoids litigation and harassment by an uncooperative agency, but does not preclude

UNIVERSITY OF MIAMI LAW REVIEW [Vol. XXIX]

prosecution for serious misconduct, or removal from office (§ 8(a)).

(c) This sub-section acts with § 11(h) to protect the secrecy and confidentiality of information obtained—in order to instill public confidence in his work; it also prevents unnecessary interruptions of his work to testify, while allowing him to proceed in court whenever necessary (§ 11(i)).

Section 17(a) precludes judicial review of the proceedings, conclusions, recommendations, or reports of the Ombudsman or members of his staff. Judicial review is likewise forbidden in the Nebraska statute and the Hawaii statute except if in Hawaii the Ombudsman contravenes the provisions of the statute.⁷⁹ The Iowa law is silent on the subject. It would seem to be implicit in the ABA Model Statute and the Nebraska statute that if the Ombudsman violates the Ombudsman statute his actions are subject to court review.

Section 17(b) further provides that the Ombudsman and staff shall have the same immunities from civil and criminal liabilities as a judge of the state. Somewhat similar language is used in the Hawaii statute except staff are omitted.⁸⁰ Iowa provides for no civil action except removal from office under Iowa law against the Citizens' Aide or his staff unless an act or omission is actuated by malice or is grossly negligent.⁸¹ There is no provision in the Nebraska statute with respect to immunity from civil and criminal liabilities.

Section 17(c) specifically gives the Ombudsman and his staff immunity from being compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except such testimony or evidence that might be necessary to enforce the Act. Somewhat similar language is used in the Nebraska statute as to both judicial or administrative proceedings and in the Hawaii and Iowa statutes as to court proceedings.⁸² As written, the Ombudsman and his staff may voluntarily testify, but cannot be compelled to do so at least in the state courts. It is the inability to compel the Ombudsman and his staff to testify in the state courts which protects the confidentiality of the information obtained by the Ombudsman. Application of the privileged communication immunity by statute to the activities of the Ombudsman is important to the Ombudsman office. However, it is submitted that the state Ombudsman and his staff can be compelled to testify in the federal courts^{82a}—a problem which would have to be

79. NEB. REV. STAT. § 81-8,253 (Supp. 1969); HAWAII REV. STAT. § 96-17 (1968).

80. HAWAII REV. STAT. § 96-17 (1968).

81. IOWA CODE ANN. § 601G.20 (Supp. 1974).

82. NEB. REV. STAT. § 81-8,253 (Supp. 1969); HAWAII REV. STAT. § 96-17 (1968); IOWA CODE ANN. § 601G.20 (Supp. 1974).

82a. Raymond A. Cornell, Deputy Citizen's Aide for Corrections, Iowa, was subpoenaed to

resolved by appropriate federal legislation.⁸³ That a complaint-handling official appointed by, responsible to, and serving at the pleasure of the executive has no immunity at all, is one of the reasons the use of the term "Ombudsman" should be confined to those coming within the definition given at the outset of this article.

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C. Section 3. Definitions

AS USED IN THIS ACT,

(a) "AGENCY" MEANS ANY DEPARTMENT, ORGANIZATION, BOARD, COMMISSION, COUNCIL, INSTITUTION OR OTHER GOVERNMENTAL ENTITY OF _____

[NAME OF STATE], AND ANY OFFICIAL, OFFICER, EMPLOYEE, OR MEMBER THEREOF ACTING OR PURPORTING TO ACT BY REASON OF HIS CONNECTION WITH _____

[NAME OF STATE], EXCEPT:

(1) ANY COURT, OR JUDGE AND APPURTENANT JUDICIAL STAFF;

(2) THE LEGISLATURE, ITS MEMBERS, ITS COMMITTEES, ITS STAFF AND ITS EMPLOYEES;

(3) THE GOVERNOR AND HIS PERSONAL STAFF.

[(4) (ALTERNATE A) ANY POLITICAL SUBDIVISION OF THE STATE;]

[(4) (ALTERNATE B) MAYORS, COUNCIL MEMBERS, AND JUDGES OF ANY POLITICAL SUBDIVISION AND THEIR PERSONAL STAFFS;]

(5) ANY MULTI-STATE GOVERNMENTAL ENTITY.

(b) AN "ACT OF AN AGENCY" MEANS ANY ACTION, DECISION, FAILURE TO ACT, OMISSION, RULE OR REGULATION, INTERPRETATION, RECOMMENDATION, POLICY, PRACTICE OR PROCEDURE OF ANY AGENCY.

(c) "PERSON" MEANS ANY INDIVIDUAL, AGGREGATE OF INDIVIDUALS, CORPORATION, PARTNERSHIP, OR UNINCORPORATED ASSOCIATION.

COMMENT.

1. ...

4. Local government exclusion from or inclusion in the Ombudsman's jurisdiction is left to the decision of the legislature. If political subdivisions are to be excluded (as in Nebraska), appropriate language is recommended in the ABA Model Statute. If local government is to come within the jurisdiction of the Ombudsman, then the ABA Model Statute recommends that the phrase "and local" be included in the legislative purpose (section one) and further that consideration be given to exclude in the section three definition of "agency" certain local officials. Both Iowa and Hawaii have jurisdiction over

19. IOWA CODE ANN. § 601G.1-2(a) (Supp. 1974); NEB. REV. STAT. § 81-3.240(1) (Supp. 1969).

20. HAWAII REV. STAT. § 96-1(a)(1) (Supp. 1974).

21. HAWAII REV. STAT. § 96-1(a)(2) (1968); IOWA CODE ANN. § 601G.1-2(b) (Supp. 1974).

22. NEB. REV. STAT. § 81-3.240(1)(b) (Supp. 1969).

23. HAWAII REV. STAT. § 96-1(a)(6) (Supp. 1974).

UNIVERSITY OF MIAMI LAW REVIEW (Vol. XXIX)

local government, but only the Hawaii law makes provision (by a 1974 amendment) for an exclusion for mayors and councils of the various counties.²⁴

It is appropriate to discuss at this point several problems in connection with local government. It is obvious that omitting local government from the jurisdiction of the state Ombudsman does not prevent the creation of the office by a political subdivision of the state. On the other hand, the comment to section one does raise the question (originally posed by Professor L. Harold Levinson, a member of the Ombudsman Committee) whether inclusion of local government will be interpreted as preempting to the state jurisdiction over both state and local agencies to prevent a local government from establishing its own local Ombudsman. The ABA Model Statute does not address this point, but this writer believes that the question must be answered in the affirmative. The problem of immunities of the local Ombudsman discussed hereafter under section 17 points to the desirability of state legislation covering the subject of local government. Either a state should give its Ombudsman jurisdiction over both local and state agencies or a state should have several statutes, one permitting local government to establish a local Ombudsman under the detailed provisions of a state statute and the other establishing a state Ombudsman without local jurisdiction.²⁵

Another possible alternative suggested by Professor Levinson is to have a statute provide for a state-wide Ombudsman without local jurisdiction but to give enabling authority for any local government to establish a local Ombudsman with essentially the same attributes and powers, subject to some variations.²⁶

5. It is made clear in the ABA Model Statute and the three state statutes that multi-state government entities are exempt from the jurisdiction of the Ombudsman.²⁷ However, the language of the ABA Model Statute and the Hawaii statute is preferable, because of its simplicity, to the language of the Nebraska and Iowa statutes, the latter stating, "any instrumentality formed pursuant to an interstate compact and answerable to more than one state."

6. The ABA Model Statute like Iowa does not specify an exclusion for federal agencies because it was deemed superfluous in view of constitutional limitations. However, the Hawaii and Nebraska statutes do contain such an explicit exclusion.²⁸

24. HAWAII REV. STAT. § 96-1(a)(7)(B), (Supp. 1974).

25. For example, the Georgia legislature passed in 1974, H.B. 85 amending the Atlanta City Charter providing for an Ombudsman. On opinion of the City Attorney to the effect that the state law was improper, the City Council passed its own Ombudsman ordinance.

26. Letters from Professor L. Harold Levinson to Bernard Frank, Oct. 30, 1973, and Jan. 11, 1974.



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You will find attached a Model Ombudsman Statute for State Governments (pages 1-15), the American Bar Association resolution on the Ombudsman (page 16), and a recommended bibliography on the Ombudsman (pages 17-19).

The Ombudsman Committee, Section of Administrative Law, American Bar Association, concluded several years ago that a uniform State Ombudsman Act was not needed in this country but that a Model Ombudsman Statute would serve a very useful purpose.

At the request of the Ombudsman Committee, Yale Legislative Services undertook to prepare a Model Ombudsman Statute for State Governments. Edward G. Grossman, a student at Yale University Law School, acted as project co-ordinator and prepared a first draft of a Model Ombudsman Statute for State Governments. The Model Statute as prepared by Yale Legislative Services was reviewed by a special committee of the Ombudsman Committee and the comments of the committee members are reflected in the final draft of the Model Statute attached hereto. The Model Statute draws heavily on Professor Walter Gellhorn's Unofficial Model Ombudsman Statute. Professor Gellhorn, who is a member of the special committee, gave his consent to the use of his Unofficial Model Ombudsman Statute as a base to prepare the Model Ombudsman Statute for State Governments.

The Model Ombudsman Statute for State Governments meets the twelve (12) essentials of an Ombudsman Statute set forth in the resolution adopted by the House of Delegates of the American Bar Association in 1969 as recommended by the Ombudsman Committee then headed by Professor Kenneth Culp Davis and amended in 1971.

This Model Ombudsman Statute for State Governments is issued by the Ombudsman Committee, Section of Administrative Law, American Bar Association, but represents a joint work product of the Yale Legislative Services and the Ombudsman Committee, Section of Administrative Law, American Bar Association. The bibliography was prepared by Mr. Grossman.

The Ombudsman Committee extends its appreciation to Yale Legislative Services and to Edward G. Grossman.

Bernard Frank, Chairman
Ombudsman Committee
Section of Administrative Law
American Bar Association
931 Hamilton Mall
Allentown, Pennsylvania 18105

American Bar Association Resolution

The following Resolution dealing with the establishment of an Ombudsman was adopted by the American Bar Association at the Midyear Meeting of the House of Delegates in 1969:

Be it Resolved, That the American Bar Association recommends:

1. That state and local governments of the United States should give consideration to the establishment of an ombudsman authorized to inquire into administrative action and to make public criticism.

2. That each statute or ordinance establishing an ombudsman should contain the following twelve essentials: (1) authority of the ombudsman to criticize all agencies, officials, and public employees except courts and their personnel, legislative bodies and their personnel, and the chief executive and his personal staff; (2) independence of the ombudsman from control by any other officer, except for his responsibility to the legislative body; (3) appointment by the legislative body or appointment by the executive with confirmation by a designated proportion of the legislative body, preferably more than a majority, such as two-thirds; (4) independence of the ombudsman through a long term, not less than five years, with freedom from removal except for cause, determined by more than a majority of the legislative body, such as two-thirds; (5) a high salary equivalent to that of a designated top officer; (6) freedom of the ombudsman to employ his own assistants and to delegate to them, without restraints of civil service and classification acts; (7) freedom of the ombudsman to investigate any act or failure to act by any agency, official, or public employee; (8) access of the ombudsman to all public records he finds relevant to an investigation; (9) authority to inquire into fairness, correctness of findings, motivation, adequacy of reasons, efficiency, and procedural propriety of any action or inaction by any agency, official, or public employee; (10) discretionary power to determine what complaints to investigate and to determine what criticisms to make or to publicize; (11) opportunity for any agency, official, or public employee criticized by the ombudsman to have advance notice of the criticism and to publish with the criticism an answering statement; (12) immunity of the ombudsman and his staff from civil liability on account of official action.

3. That for the purpose of determining the workability of the ombudsman idea within the Federal government, the Federal government should experiment with the establishment of an ombudsman or ombudsmen for limited geographical area or areas, for a specific agency or agencies or for a limited phase or limited phases of Federal activity.

4. That establishment of a Federal government-wide ombudsman program should await findings based upon the experimentation recommended.

Be it Further Resolved, That the Section of Administrative Law is authorized to present the views of the Association and to encourage the establishment of ombudsmen in accordance with the provisions of this Resolution, by all necessary and appropriate means.

A State Statute to Create The Office of Ombudsman

226

*Harvard Journal on Legislation***SECTION 603. *Judicial review.***

No proceeding or decision of the Ombudsman may be reviewed in any court, unless it contravenes the provisions of this Act.

SECTION 604. *Immunity of the Ombudsman.*

The Ombudsman has the same immunities from civil and criminal liability as a judge of this state. ||

SECTION 605. *Ombudsman's privilege not to testify.*

The Ombudsman and his staff shall not testify in any court with respect to matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this Act. ||

COMMENT

SECTION 603. *Judicial Review.*

This section prevents an agency or official from securing judicial review of the Ombudsman's recommendations. Since the Ombudsman has no power to revise agency actions, it is unlikely that anyone would be held to have standing to object to his recommendations. However, since the institution is new in this country, one cannot be certain how the law will develop. This provision is included to guarantee that the Ombudsman will not be frequently involved in litigation when an agency disagrees with his appraisal of its actions.

SECTION 604. *Immunity of the Ombudsman.*

The Ombudsman is given the immunities from civil and criminal prosecution that are enjoyed by a state judge. The most significant of these is immunity from liability for defamation arising out of statements made in the exercise of his duties. ||

SECTION 605. *Ombudsman's privilege not to testify.*

The purpose of this section is to encourage people to cooperate with the Ombudsman, without fear that he will divulge information disclosed to him in confidence. This section also protects the Ombudsman and his staff from the embarrassment and interruption of having to testify in regard to cases they have investigated. However, since the Ombudsman may need recourse to the courts to perform his duties under this act, this privilege is not withheld from him. Its most likely use is to enforce his subpoena power under section 403. He may also testify in regard to the penalty for obstruction under section 607. ||

International Bar Association

Ombudsman Committee

Chairman
Bernard Frank (USA)

Vice Chairman
Alex B. Weir (Canada)

November 17, 1978

Ms. Karla L. Forsythe
Ombudsperson
Municipality of Anchorage
Office of the Ombudsman
Pouch 6-650
Anchorage, Alaska 99502

Dear Ms. Forsythe:

Thank you for the copy of the letter to Peter Freeman. You raised two points:

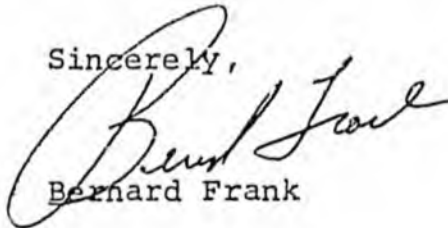
1. Confidentiality of communications between complainants and your office. This problem, please note pages 439 to 441 inclusive from my article on "State Ombudsman Legislation in the United States", Section 17, pages 13-14, of the Model Ombudsman Statute, and pages 47-48 of my article on the Nebraska Public Counsel. This problem was discussed at one of the workshops at the Dayton conference. The problem with local government is that the only item on the subject is a local ordinance and then the immunity extends only in those courts which are subject to the jurisdiction of the local governments. You will not have immunity in the state courts and certainly not in the federal courts. However, if I were you I would do what I could on the local level and you will note there are sections on immunity in the Flint Charter, page 20, and the Detroit Charter, Section 4-315. The state statute might be necessary to protect you in the state courts but this would, of course, not preclude being subpoenaed for a federal court. Your only hope there would be to have a federal statute to cover this subject. There remains a great deal of work in this particular area. I would suggest that you write to William P. Angrick, II, Office of the Citizens' Aide, 515 East Twelfth Street, Des Moines, Iowa, 50319, because his office has been involved in several cases involving freedom from subpoena in a federal court. The early part of this year, a Federal Judge upheld the confidentiality of the Iowa Ombudsman records on the basis that there was no federal interest involved and the state policy should prevail as reflected in the Statute granting immunity. ✓

Ms. Karla L. Forsythe
Page 2
November 17, 1978

2. With respect to provisions containing non-retaliation sections, I would refer you to page 44 of the Nebraska article, Section 13(e) of the Model Statute, and page 432 of the University of Miami article. Offhand, I found only a section on this in the Nebraska statute.

If you wish to discuss this further, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bernard Frank", is written over the typed name.

Bernard Frank

BF:dc

Enclosures

~~CONFIDENTIAL~~
Communication
Attorney/Client

MUNICIPALITY OF ANCHORAGE

MEMORANDUM

RECEIVED

DATE: July 6, 1990

TO: Michael Mills, Ombudsman

FROM: Kevin Finnigan, Assistant Municipal Attorney *KF*

THRU: James E. Ramsey, Deputy Municipal Attorney *JR*

THRU: Richard D. Kibby, Municipal Attorney *RDK*

SUBJECT: MOA v. Robert H. Stafford
Superior Court Case No. 3AN-89-7397 Civil

JUL 12 1990

Office of the Ombudsman *me*

You have asked whether AMC 2.60.120(C) provides authority to exempt the Ombudsman from honoring a subpoena to testify at a trial.

SHORT ANSWER

AMC 2.60.120(C) does not provide a recognizable privilege exempting the Ombudsman from honoring a subpoena and testifying at trial. ||

FACTS

Mr. Stafford has advised the Ombudsman and his assistant that he would be issuing them a subpoena to appear and testify at his upcoming trial. Mr. Stafford had previously filed a complaint with the Ombudsman's office concerning alleged improprieties by an employee at the Parks and Recreation Department. The Ombudsman's office made an initial inquiry into the matter but did not investigate the matter because of pending litigation.

DISCUSSION

AMC 2.60.070(C) states:

The Ombudsman shall protect the confidentiality of complainants or witnesses coming before them except insofar as disclosure may be necessary to enable the Ombudsman to carry out his duties.

The above provision does not provide a privilege from honoring a subpoena or testifying in court. Instead, AMC 2.60.070(C) prohibits the Ombudsman from voluntarily disclosing information ||

Michael Mills, Ombudsman
July 6, 1990
Page 2

obtained from complainants and witnesses except insofar as disclosure may be necessary to enable the Ombudsman to carry out his duties. The State Ombudsman is afforded protections not given to the Municipal Ombudsman. AS 24.55.260 states that "the ombudsman and the staff of the ombudsman's office may not testify in a court regarding matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this chapter." Based on AS 24.55.260, the State Ombudsman may refuse to testify as a witness. Alaska Rule of Court 501 recognizes certain privileges from testifying in court. Among those recognized are privileges provided in enactments of the Alaska Legislature. Alaska Rule of Court 501 thus would recognize the privilege of the State Ombudsman pursuant AS 24.55.260 from testifying as provided by state law. No such protection is recognized for the Municipal Ombudsman.

Please contact this office if we may be of further assistance.

KF:ld
M/MILLS1

ALASKA STATUTES

LEGISLATURE

Chapter 55. Office of the Ombudsman.

Sec. 24.55.240. Judicial review. A proceeding or decision of the ombudsman may be reviewed in superior court only to determine if it is contrary to the provisions of this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.250. Immunity of the ombudsman. A civil action may not be brought against the ombudsman or a member of the ombudsman's staff for anything done, said or omitted in performing the ombudsman's duties or responsibilities under this chapter. (§ 1 ch 32 SLA 1975)

Sec. 24.55.260. Ombudsman's privilege not to testify. The ombudsman and the staff of the ombudsman may not testify in a court regarding matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this chapter. (§ 1 ch 32 SLA 1975)

ALASKA STATUTES

Article 4. Older Alaskans Commission.**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. 44.21.235. Confidentiality. (a) Records obtained or maintained by the ombudsman are confidential, are not subject to inspection or copying under AS 09.25.110 — 09.25.120 and, except as provided in (b) of this section, may be disclosed only at the discretion of the ombudsman.

(b) The identity of a complainant or an older Alaskan on whose behalf a complaint is made may not be disclosed without the consent of the identified person or the person's legal guardian, unless required by court order. (§ 2 ch 108 SLA 1988)

Sec. 44.21.236. Immunity from liability. (a) A person who, in good faith, makes a complaint described in AS 44.21.232 is immune from civil or criminal liability that might otherwise exist for making the complaint.

(b) The ombudsman, or an employee, volunteer, or other representative of the office, is immune from civil or criminal liability for the good faith performance of official duties. (§ 2 ch 108 SLA 1988)

INTERNATIONAL OMBUDSMAN INSTITUTE: CASES
July 24, 1986

UNITED STATES - ALASKA

"Kimberly Shinn v. Charles Dexter, et al."
4FA -81-1736-Civ. (Alaska S.C.) Order June 8, 1982

OMBUDSMAN OFFICES - CONFIDENTIALITY*

The plaintiff sought to compel the testimony of a staff member of the Office of Ombudsman for Alaska at trial. The Office of Ombudsman had investigated a complaint which related to the plaintiff's present legal action. The Office of Ombudsman brought a Motion to Strike the staff member's name from the Witness List and a Protective Order barring the production of witnesses on documents from the office of Ombudsman. The Ombudsman's motion was based primarily on the confidentiality provisions of the statute: AS 24.55.160(b) "The Ombudsman shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before him except insofar as disclosures may be necessary to enable him to carry out his duties and to support his recommendations."; and on AS 24.55.260 "The Ombudsman and his staff may not testify in a court regarding matters coming to their attention in the exercise or purported exercise of their official duties except as may be

necessary to enforce the provisions of this chapter." The Superior Court granted the Order striking the staff members name from the Witness List and a Protective Order barring the production of witnesses and/or documents from the Ombudsman Office was entered

INTERNATIONAL OMBUDSMAN INSTITUTE: CASES
July 24, 1986

UNITED STATES - IOWA

"Kelly v. Brewer"

RC Civil No. 73-177-2, order filed April 28, 1975

IOWA CITIZENS' AIDE* U.S. FEDERAL COURT SUBPOENA* OMBUDSMAN -
CONFIDENTIALITY*

The Iowa Citizens' Aide (Ombudsman) Mr. Thomas R. Mayer was served with a Federal Court subpoena. Mr. Mayer has tried to resist attempts to have his Ombudsman office used as a means of discovery for litigation. The only possible solution to the present dilemma facing State Ombudsmen in the United States would be Federal legislation granting immunity from Federal subpoena. The court ruling requiring a member of the Ombudsman's staff to testify in court was not appealed since an accord was worked out between the plaintiff's counsel and the Ombudsman's counsel enabling the testimony to be given "in camera" if the subpoena was withdrawn.

27

UNITED STATES - IOWA

"Remmers et al. v. Brewer"

U.S. District Court, Southern District of Iowa, Judgment delivered
January 4, 1978 36 pages

CITIZEN'S AIDE FOR CORRECTION* U.S. FEDERAL COURT SUBPOENA* OMBUDSMAN -
CONFIDENTIALITY*

A prison ombudsman was subpoenaed to testify in United States District Court regarding Remmers v. Brewer. Litigation was to determine the status of a prison religion. The state was trying to prove no such religion existed, and the prison ombudsman's testimony was to provide proof through information gathered in the course of his duties. The Citizen's Aide objected, based on Iowa Code which stated that information gathered by the prison ombudsman was confidential. He wished to protect the confidentiality, credibility, and physical safety of the prison ombudsman and other staff while in the prisons. On November 29, 1977 a magistrate granted the motion to quash, because no serious federal interest overrode his statutory immunity from subpoena. The state's interest in protecting the confidentiality of the Ombudsman outweighed the defendant's need for the prison ombudsman's testimony. An appeal to the District Court was dismissed because "the state interest in the efficient operation of its administrative agencies as embodied in the Citizen's Aide concept would clearly be adversely affected by compelling Cornell (the prison ombudsman) to testify."

UNITED STATES -ALASKA

"Patricia v State of Alaska (Department of Health and Social Services, et al."

1985 Annual Report of Alaska Ombudsman, App. F 6pages, 161-167

Ombudsman-Non-Compellibility* Ombudsman Statute, A.S., s24.55.260*

The Ombudsman for the State of Alaska sought to quash a subpoena which had been issued requiring an employee of his office to provide a deposition, and for a further order enforcing the privilege of the Alaska Statute and barring any production of witnesses from The Office of the Ombudsman in the action. An employee of The Office of the Ombudsman, in the course of his employment, had investigated a complaint by the plaintiff against the State of Alaska, Department of Health and Social Services. The complainant had alleged that the department's hiring, practises contravened the State Personnel Act and Personnel Rules. The employee had completed the investigation and drafted a report which was issued to Ms. Williams and signed by the Ombudsman, Frank Flavin. Ms. Williams ultimately filed an action against The Department of Health and sought through the subpoena, information obtained during the course of the investigation. The Court reviewed the provisions of -The Ombudsman Act- regarding the confidentiality of the Ombudsman and the protection afforded him and members of his staff from testifying in respect to matters coming to their attention during the course of their investigation and concluded that the privilege was such that it should be recognized and accordingly ordered that the subpoena be quashed and a protective order issued. In coming to this conclusion, the Court viewed the privilege necessary in order to protect the confidentiality of information obtained by the Ombudsman, encourage co-operation on an investigation, and keep the Ombudsman out of vexatious litigation. In addition, the Court held that the plaintiff would have to establish the special need for the information. Finally, it concluded that the adverse impact in compelling testimony would be substantial. For all the above reasons the Court recognized the privilege from testifying and quashed the subpoena.

UNITED STATES -HAWAII

"Jake Lapin v. William C. Plowden, Jr., and Joshua C. Aagsalud Re: Civil No. 84-0143, order filed April 10, 1984"

U.S. Federal Court Subpoena*

The State Ombudsman, Herman S. Doi, was served with a Federal Court subpoena which was issued at the request of a Plaintiff in a civil suit. A motion to quash the subpoena was filed to resist the attempt to have the Ombudsman testify and produce records in court pursuant to the subpoena. The motion was based on the premise that court may quash or modify the subpoena if it is unreasonable and oppressive. The memorandum in support of the motion cited section 96-9(b), Hawaii Revised Statutes (HRS), the Ombudsman is required to maintain secrecy in respect to all matters and identities of complainants and witnesses - section 96-17, HRS, the Ombudsman and his staff shall not testify in any court- and that the court should decide the issue by balancing State and Federal interest under Rule 501, Federal Rules of Evidence. Hawaii's interest, to protect the statutory privilege granted the Ombudsman, an officer of the legislature, prevailed and the subpoena was quashed by the magistrate hearing the motion. Plaintiff appealed the decision of the magistrate by filing a "Motion to Set Aside the Magistrate's Order Granting Motion to Quash Subpoena Duces Tecum", which motion was denied on the grounds of mootness because the court dismissed the case for Plaintiff's lack of standing.



State of Alaska
Ombudsman

Duncan C. Fowler

Reply to:

P.O. Box 102836
Anchorage, AK 99510-2836
(907) 277-8848
(800) 478-2624

FEB 26 1991

P.O. Box WO
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970

P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

February 26, 1991

Senator Steve Frank, Chairman
Community and Regional Affairs Committee
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811-3100

RE: SB 120, Municipal Ombudsmen

Dear Senator Frank:

Please consider this letter to be in support of SB 120. Its passage will provide protections to ombudsmen established by municipal ordinance similar to those granted ombudsmen in state government.

The Alaska Ombudsman Act, which established this office, and the statutes which established the Long Term Care Ombudsman have provisions similar to the proposed SB 120. Both laws grant the ombudsmen offices immunity from civil action, excuse the ombudsmen from testifying in court and have strict confidentiality provisions preventing the disclosure of file materials. SB 120 would insure municipal ombudsmen have similar protections.

The immunity from civil action, assurance of confidentiality of investigative files, and immunity from testifying in court are common elements in model ombudsman legislation promoted by both national and international organizations. These provisions are cited as being desirable by the International Bar Association's Ombudsman Committee, the American Bar association model law and the model ombudsman act proposed in the Harvard Law Review.

There are several practical effects of such provisions. Ombudsmen, by the nature of their work, continually deal with situations where two persons are in disagreement. Some citizens believe the way to resolve disagreements is in the courts. If possible, they would sue the ombudsman if they disagreed with the office's findings and recommendations. Although the ombudsman only has the power to recommend change, the information we obtain during the course of an investigation would be valuable to persons interested in suing the state. Some attorneys would like to rely on ombudsman staff to do their paralegal work.

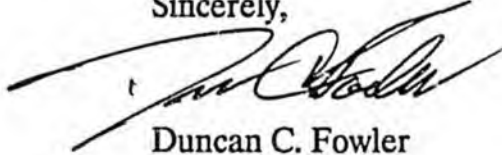
It is important that ombudsmen have clear access to agencies and their records in order to make factual findings and practical recommendations. This can only be done if the agencies have confidence the ombudsman will be able to

- maintain the confidentiality of the materials. The investigative files should not be subject to subpoena nor the subject of testimony by ombudsman staff.

February 26, 1991

In summary, I do support the passage of SB 120. I believe passage will provide municipal ombudsman offices with protections that are consistent with model ombudsman laws. Please let me know if you have any other questions regarding ombudsmen and the effect of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Duncan C. Fowler", written in a cursive style.

Duncan C. Fowler
Ombudsman

DCF:pjc
cc: Senator Virginia Collins



State of Alaska
Ombudsman

Duncan C. Fowler

February 26, 1991

FEB 27 1991

Senator Steve Frank, Chairman
Community and Regional Affairs Committee
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811-3100

Reply to:

P.O. Box 102636
Anchorage, AK 99510-2636
(907) 277-8848
(800) 478-2624

P.O. Box WO
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970

P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

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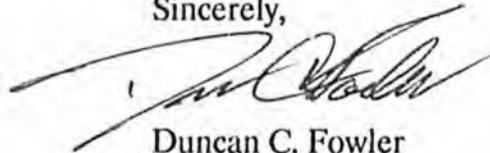
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It is important that ombudsmen have clear access to agencies and their records in order to make factual findings and practical recommendations. This can only be done if the agencies have confidence the ombudsman will be able to maintain the confidentiality of the materials. The investigative files should not be subject to subpoena nor the subject of testimony by ombudsman staff.

February 26, 1991

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Sincerely,

A handwritten signature in black ink, appearing to read "Duncan C. Fowler". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Duncan C. Fowler
Ombudsman

DCF:pjc
cc: Senator Virginia Collins



Official Business

Alaska State Legislature

SENATE

SENATOR VIRGINIA COLLINS

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

FEB 15 1991

MEMORANDUM

TO: Senator Steve Frank, Chair
Senate Community and Regional Affairs Committee

FROM: Senator Virginia Collins *VM*

DATE: February 14, 1991

RE: Senate Bill 120, "An Act relating to immunity of a municipal ombudsman and staff and privilege of a municipal ombudsman and staff not to testify about certain matters."

I respectfully request that you schedule the above-referenced bill for hearing at your earliest convenience.

This bill would extend to the municipal ombudsman the same immunity and the same privilege not to testify about certain matters that are currently given to the Office of the State Ombudsman.

There is currently only one municipal ombudsman in Alaska. Several communities have contracted with the state ombudsman to provide ombudsman services to the respective communities. Those contractual ombudsmen are protected under the statutes for the state office. Yet the one municipal ombudsman, performing the same function as those whose services have been contracted, does not have the same protection.

Due to the nature of the work of an ombudsman, this immunity and privilege not to testify has been shown in Alaska and in other states to be beneficial and, in many cases, necessary to the performance of the duties of the office.

Please contact Marveen at 465-2828 if you have any questions.

SB

121

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 121

Revision Date: _____
Title: "An Act relating..to National
Forest Receipts...."

Department Affected: Community & Regional Affairs
BRU: Community Assistance Grants
Component: National Forest Receipts

Sponsor: Senator Jones
Requestor: _____

COMPONENT SERIAL NO.

	6	6	6
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	54,500	57,498	59,509	61,593	63,749	65,980
TRAVEL						
CONTRACTUAL	2,000	2,000	2,000	2,000	2,000	2,000
SUPPLIES	600					
EQUIPMENT	3,000					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60,100	59,498	61,509	63,593	65,749	67,980

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	60,100	59,498	61,509	63,593	65,749	67,980
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	1	1	1	1	1	1
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared By: RA Remond Henderson, Director Phone: 465-4708

Division: Administrative Services Date: 3/7/91

Approved by Commissioner: [Signature] 3/27/91

Agency: Community & Regional Affairs Date: 3/7/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Community & Regional Affairs	DIVISION MRAD	BILL NUMBER SB 121	SPONSOR Sen. Jones
SHORT TITLE OF BILL An act relating to distribution of income from National Forest land in the unorganized borough			
DEPARTMENT POSITION Support the concept; do not support methodology for distributing funds			
PREPARED BY Peter Freer	DATE 3/6/91	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/07/91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL DOT/PF Education	CONSTITUENT GROUP(S) AFFECTED BY BILL REAA's, municipal school districts, municipalities & unincorporated communities in the unorganized borough
ORGANIZATIONAL SUPPORT FOR BILL REAA's	ORGANIZATIONAL OPPOSITION TO BILL unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
Second year in a row Sen Jones has introduced a bill widening the distribution of forest receipts. Under this bill's formula, it appears substantial funds could to the REAA's.

ANALYSIS OF BILL/PROGRAM EFFECTS
The bill would distribute national forest receipts in the unorganized boroughs based on a formula tied to (1) the effects of timber harvest and processing and (2) the overall populations of the community living and working on national forest land. The effect of this, it appears, is to skew funding toward REAA's and away from communities in the unorganized borough not engaged in timber harvest or processing on federal land or affected by those areas on federal land. ;

- AMENDMENTS PROPOSED
1. expand formula to include Chugach National Forest
 2. restrict funding to REAA's
 3. clarify formula to clearly indicate who is, and who is not, eligible for funding.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Position Title Grant Administrator		No. of Positions 1	Range / Step 13A	Barg. Unit GGU
Time Status	Staff Months	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount		
Salary		27,336		
Benefits		11,640		
Premium Pay				
Other				
Total Personal Services		38,976		
Travel				
Contractual		1,500		
Commodities		500		
Equipment		2,000		
Other				
Total Cost		42,776		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	42,776		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification				
<p>This position is required to administer the grants to the Unincorporated Communities under HB 54. These additional grants will impact the existing grant section within the agency. This low range position would be responsible for administering this grant program. Contractual and supplies covers normal office expenses. Equipment funds would purchase one terminal and installation charges.</p>				

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Position Title Accounting Clerk III (Part-time)		No. of Positions 1	Range / Step 10A	Barg. Unit GSU
Time Status	Staff Months	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount		
Salary		11,376		
Benefits		2,640		
Premium Pay				
Other				
Total Personal Services		14,016		
Travel				
Contractual		500		
Commodities		100		
Equipment		1,000		
Other				
Total Cost		15,616		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	15,616		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification				
The distribution of National Forest Receipts to the Unincorporated Communities in the State will generate additional fiscal related activities. The personal service portion of this request will pay for one part-time Accounting Clerk III to perform these duties. Contractual and supplies amount covers normal office supply usage. Equipment funds would purchase one terminal and installation charges.				

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