

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7754 HOUSE COMMUNITY & REGIONAL AFFAIRS

1 claimant or applicant due to situations over which the claimant or applicant had no  
2 control; the exercise of this discretionary power operates only to divest the state of its  
3 title to or interests in land and may be exercised only

4 (A) with the express approval of the commissioner; and

5 (B) if the application for the preference right is filed with the  
6 director within three years from

7 (i) the occurrence of the error or omission;

8 (ii) the date of acquisition by the state of the land; or

9 (iii) the date of a court decision or settlement nullifying  
10 a disposal of state land;

11 (3) grant a preference right to a claimant who shows bona fide  
12 improvement of state land or of federal land subsequently acquired by the state and  
13 who has in good faith sought to obtain title to the land but who, through error or  
14 omission of others occurring within the three years before (A) the application for the  
15 preference right, (B) the date of acquisition by the state of the land, or (C) the date of  
16 a court decision or settlement nullifying a disposal of state land, has been denied title  
17 to it; upon a showing satisfactory to the commissioner, the claimant may lease or  
18 purchase the land at the price set on the date of original entry on the land or, if a price  
19 was not set at that time at a price determined by the director to fairly represent the  
20 value of unimproved land at the time the claim was established, but in no event less  
21 than the cost of administration including survey; the error or omission of a predecessor  
22 in interest or an agent, administrator, or executor which has clearly prejudiced the  
23 claimant may be the basis for granting a preference right;

24 (4) sell land by lottery for less than the appraised value when, in the  
25 judgment of the director, past scarcity of land suitable for private ownership in any  
26 particular area has resulted in unrealistic land values;

27 (5) when the director determines it is in the best interest of the state  
28 and will avoid injustice to a person or the heirs or devisees of a person, dispose of  
29 land, by direct negotiation to that person who presently uses and who used and made  
30 improvements to that land before January 3, 1959, or to the heirs or devisees of the  
31 person; the amount paid for the land shall be its fair market value on the date that the

1 person first entered the land, as determined by the director, a parcel of land disposed  
2 of under this paragraph shall be of a size consistent with the person's prior use, but  
3 may not exceed five acres;

4 (6) dispose of an interest in land limited to use for agricultural purposes  
5 by lottery;

6 (7) convey to an adjoining landowner for its fair market value a  
7 remnant of land that the director considers unmanageable or a parcel of land created  
8 by a highway right-of-way alignment or realignment, or a parcel created by the  
9 vacation of a state-owned right-of-way if

10 (A) the director determines that it is in the best interests of the  
11 state;

12 (B) the parcel does not exceed the minimum lot size under an  
13 applicable zoning code; and

14 (C) the director and the platting authority having land use  
15 planning jurisdiction agree that conveyance of the parcel to the adjoining  
16 landowner will result in boundaries that are convenient for the use of the land  
17 by the landowner and compatible with municipal land use plans;

18 (8) for good cause extend for up to 90 days the time for rental or  
19 installment payments by a lessee or purchaser of state land under this chapter if  
20 reasonable penalties and interest set by the director are paid;

21 (9) quitclaim land or an interest in land to the federal government on  
22 a determination that the land or the interest in land was wrongfully or erroneously  
23 conveyed by the federal government to the state;

24 (10) negotiate the sale or lease of state land at fair market value to a  
25 person who acquired by contract, purchase, or lease rights to improvements on the land  
26 from another state agency or who leased the land from another state agency;

27 (11) quitclaim land or an interest in land, including submerged or  
28 shore land, to a municipality to correct errors or omissions of the municipality  
29 when inequitable detriment would result to a person due to that person's reliance  
30 on the errors or omissions of the municipality, the quitclaim shall be made on  
31 such terms and conditions as the director considers appropriate except that, if the

1 municipality has a remaining entitlement to land under AS 29.65, the land or  
2 interest quitclaimed is counted against the municipality's remaining entitlement.

3 \* Sec. 2. AS 38.05.820(b) is amended to read:

4 (b) A home [HOME] rule, [CITIES AND CITIES OF THE] first class, or  
5 second class city [INCORPORATED ON OR BEFORE APRIL 1, 1964,] may apply,  
6 in the manner prescribed by the director, and in accordance with [SUCH] regulations  
7 that [AS] the director may adopt, for a conveyance [TO THEM] of all land seaward  
8 of the city that [HOME RULE CITIES AND CITIES OF THE FIRST CLASS  
9 WHICH] is between the mean high tide line in, or forming the boundary of, the city  
10 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS,] and a line to be  
11 shown on a plat made a part of the application that [WHICH] shall be the pierhead  
12 line established under the Act of September 7, 1957, or the harbor line established  
13 under the Act of March 3, 1899, or if no pierhead line or harbor line is established  
14 then a line subject to approval by the director, with the concurrence of the  
15 commissioner, that [WHICH] shall be seaward of all tide and submerged land  
16 occupied or suitable for occupation and development without unreasonable interference  
17 with navigation. The director shall convey that tide and submerged land to the city  
18 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]. Applications by  
19 preference right claimants filed with the director before June 30, 1964, shall continue  
20 to be processed to a final determination and conveyance, if any, by the director, if the  
21 [SUCH] preference right claimants are entitled to a conveyance from the director under  
22 the laws existing previous to July 22, 1964.

23 (1) Each home rule, first class, and second class city [AND CITY OF  
24 THE FIRST CLASS] granted a conveyance shall prepare an official subdivision plat  
25 of the area conveyed showing all structures and improvements and the boundaries of  
26 each tract occupied or developed, together with the name of the owner or claimant.  
27 The subdivisional plat must [SHALL] include within the boundaries of each tract  
28 occupied or developed the [SUCH] surrounding tide and submerged land that [AS]  
29 is reasonably necessary in the opinion of the governing body of the city [HOME  
30 RULE CITIES AND CITIES OF THE FIRST CLASS] for the use and enjoyment of  
31 the structures and improvements by the owner or claimant, but may [SHALL] not

1 include tide or submerged land that [WHICH] if granted to the occupant would  
2 unjustly deprive an occupant of adjoining land from reasonable use and enjoyment of  
3 it.

4 (2) An occupant of land included in the conveyance to a home rule,  
5 [CITIES AND CITIES OF THE] first class, or second class city who occupied or  
6 developed the land on and before September 7, 1957, has a class I preference right to  
7 the land from the city [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]  
8 upon the execution of a waiver to the state and the city [HOME RULE CITIES AND  
9 CITIES OF THE FIRST CLASS] of all rights the occupant may have acquired under  
10 Public Law 85-303 (71 Stat. 623).

11 (3) An occupant of land included in the conveyance to a home rule,  
12 [CITIES AND CITIES OF THE] first class, or second class city who has a class II  
13 preference right by reason of the conveyance to the city [HOME RULE CITIES AND  
14 CITIES OF THE FIRST CLASS], and is unwilling to waive the right has a preference  
15 right to the land that [WHICH] it is mandatory for the city [HOME RULE CITIES  
16 AND CITIES OF THE FIRST CLASS] to expeditiously honor upon application from  
17 the occupant after the Secretary of Defense [THE ARMY] has submitted to the  
18 Secretary of the Interior and the governor of the state maps showing the pierhead line  
19 established by the corps of engineers with respect to the tract so granted.

20 (4) An occupant of land included in the conveyance to a home rule,  
21 [CITIES AND CITIES OF THE] first class, or second class city who occupied or  
22 developed the land after September 7, 1957, and before January 3, 1959, and who  
23 continued to occupy it on January 3, 1959, has a class III preference right to the land  
24 from the city [HOME RULE CITIES AND CITIES OF THE FIRST CLASS].

25 (5) In making a conveyance to an occupant, the home rule, [CITIES  
26 AND CITIES OF THE] first class, or second class city shall include as a part of the  
27 tract conveyed and in addition to the occupied or developed land, the [SUCH]  
28 additional tide and submerged land that [AS] is reasonably necessary in the opinion  
29 of the governing body of the city [HOME RULE CITIES AND CITIES OF THE  
30 FIRST CLASS] for the occupant's use and enjoyment of the occupied or developed  
31 land, but the conveyance may [SHALL] not include any area that [WHICH] would

1 unjustly deprive an occupant of adjoining land from reasonable use and enjoyment of  
2 it or that [WHICH], if developed, will interfere with navigation.

3 (6) Each home rule, [CITY AND CITY OF THE] first class, and  
4 second class city receiving conveyances shall by ordinance provide for reasonable  
5 regulations governing the filing and processing of applications, publication of notices,  
6 and the adjudication of disputes between claimants by the governing body of the city  
7 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]. A party aggrieved  
8 by its determination may appeal to the superior court.

9 (7) When no preference right has been granted to purchase or lease  
10 tideland, the home rule, [CITIES AND CITIES OF THE] first class, or second class  
11 city may sell or lease the tideland conveyed to them, and may impose terms or  
12 conditions for the sale or lease. The [SUCH] terms and conditions shall include the  
13 [SUCH] reservation of rights-of-way that [AS] are necessary to provide reasonable  
14 access to public waters.

15 \* Sec. 3. AS 38.05.035(b)(11) is repealed January 1, 1998.



\*\*\* ORDER SUMMARY \*\*\*

SPONSOR: HDRA HOUSE COMMUNITY AND REGIONAL AFFAIRS CHAIRS: LIBERS  
 PURPOSE: PUBLIC HEARING LEGISLATIVE  
 CONTACT: DAVE KARATH TEL#: (707) 425-4850  
 WRITING SITE: JUNEAU CAPITAL

SPONSOR REMARK (PUB): TESTIMONY Y ALLOWED 3 MINUTE LIMIT  
 FOR REQUESTED ON 02/01/89 AND HAS 3 UPDATES

\*\*\* AGENDA \*\*\*

- 1. HB 377 TAXING POWER OF SECOND CLASS CITIES
- 2. HB 378 LAND CONVEYED TO & FROM MUNICIPALITIES

\*\*\* PARTICIPATING SITES \*\*\*

ANCHORAGE	TRAIL BLVD. #200	LOCATION: STAFF
JUNEAU	CAPITOL	LOCATION: STAFF
PETE SBURG	101 GJON STREET	LOCATION: STAFF

\*\*\* VOLUNTEER & OFFICE SITES \*\*\*

ESS OF OFFICE	ANCHORAGE	RON SWANSON	(907) 299-9054
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PARTICIPANTS IN ANCHORAGE AK

1	TIM TROLL	CITY SAND POINT TSPY, HB 399
	1400 W 37. STE 103	ANCHORAGE AK 99506 (907) 274-7500
2	GARY WILLIAMS	CITY OF WHITTIER TSPY, ALL ITEMS
	BOX 498	WHITTIER AK 99670 (907) 224-2331
3	JIM BARNETT	CITY OF WHITTIER TSPY, ALL ITEMS
	10000 PROSPECT DR	ANCHORAGE AK 99516 (907) 246-2700
	CHARLES HOKET	TSPY, HB 395
	1506 W 13RD, PC 7	ANCHORAGE AK 99501 (907) 000-8000

PARTICIPANTS IN JUNEAU AK

1 REP	HARLEY OLSEN	TSPY, HB 397
		AK (907) 000-0000
2 REP	ED WILLIS	TSPY, HB 397
		AK (907) 000-0000
3 REP	JIM DAVIES	TSPY, HB 397
		AK (907) 000-0000
4 REP	BOYD JONES	TSPY, HB 397
		AK (907) 000-0000
5	DAVE DUFF	REP OFFICE
		TSPY, HB 397
		AK (907) 000-0000

PARTICIPANTS IN PETE SBURG AK

1 REP	CHUCK SPRADLE	CITY ANCHORAGE
	501 507	ANCHORAGE AK 99223 (907) 772-3300



HOUSE COMMUNITY AND REGIONAL AFFAIRS

SUBJECT OF MEETING:

HB 397 + HB 398

DATE: 2/1/94

PLACE: Rm 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Crystal Smith	AML	217 2d St, Suite 200			6-1325	<input checked="" type="radio"/> Y <input type="radio"/> N	If necessary - HB 397 + HB 398
D Gray	Rep Markie					<input checked="" type="radio"/> Y <input type="radio"/> N	HB 398
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	



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# HOUSE COMMITTEE REPORT

(7) Date Referred: February 2, 1994 FURTHER REFERRALS: Finance

Date of Committee Action: 2-22-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered: HB 427

HOUSE BILL NO. 427 COMPENSATION; LOCAL BOUNDARY COMMISSION

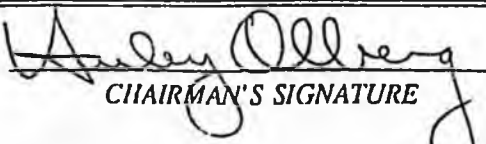
"An Act relating to compensation for members of the Local Boundary Commission."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept.) APPROVES PREVIOUS: (Dept/Date)  
 fiscal impact CRA  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Haley Olberg</u>	✓	<u>W. Williams</u>		✓	
<u>Jul Davis</u>	✓	<u>C. K...</u>		✓	
<u>Ed Wells</u>	✓				
<u>Scott ...</u>	✓				

  
 CHAIRMAN'S SIGNATURE

Prepared Remarks to the House Community & Regional Affairs Committee  
by Darroll Hargraves, Chairman, Local Boundary Commission  
February 22, 1994

**Introduction.** Mr. Chairman, members of the Committee: Thank you for the opportunity to address you this afternoon. I am Darroll Hargraves from Ketchikan, Chair of the Local Boundary Commission. With me are Shelley Dugan, Vice Chair from Fairbanks; Myrtle Johnson, member from Nome; Frances Hallgren, member from Sitka; and Toni Salmeier, member from Anchorage.

**Background.** The Local Boundary Commission acts on petitions for city and borough incorporation, annexation, detachment, dissolution, merger and consolidation. The Commission's role is to objectively consider arguments for and against such proposals, taking areawide and statewide needs into consideration. The Commission is one of five boards or commissions with origins in Alaska's Constitution.

The Commission consists of five members. One is appointed from each of Alaska's four judicial districts; the fifth member is appointed at-large. Procedures used by the Commission are designed to secure the reasonable, timely and inexpensive determination of municipal boundary proposals. These procedures include extensive public notice and opportunity for comment, thorough study, public informational meetings, public hearings, a decisional meeting of the Commission and opportunity for reconsideration. A summary of the these procedures is provided on pages 2 - 5 of the Commission's January 19, 1994 report to the Legislature.

Decisions of the Commission are based upon criteria or standards set out in statutes and regulations. The Department of Community and Regional Affairs provides staff support to the Commission.

During 1993, the Commission held 20 meetings. Annexations were implemented or approved in Cordova, Palmer, Hoonah, Haines, Fairbanks, Seldovia, Soldotna, Thorne Bay and King Cove. The Commission also denied one annexation proposal.

**Annexations Subject to Review by 1994 Legislature.** The Commission filed three formal recommendations for annexation with the Legislature on January 19, 1994. Under provisions of the Constitution and statutes, the Legislature has 45 days to consider the proposed annexations (or until the end of the Session, whichever occurs first). If the Legislature takes no action, the annexations gain automatic legislative approval 45 days after the recommendations were filed by the Commission. In this case the 45-day review period expires Saturday, March 5, 1994. Alternatively, the Legislature may deny any one or more of the annexations by adopting "a resolution concurred in by a majority of the members of each house" on or before March 5.

Remarks to House C&RA Committee  
February 22, 1994  
Page Three

decisional documents. Of course, the Commission will also attempt to answer any questions you may have at this time.

**Pending Legislation.** There are three bills that I wish to address briefly.

CSSB 164(CRA) makes technical amendments to the law that have been sought by the Local Boundary Commission for the past several years. I have attached a one-page summary and three-page sectional analysis of the bill. This legislation is vital to the mission of the Local Boundary Commission. The bill is presently before the Senate Judiciary Committee – the last Senate Committee to which the bill has been referred. That Committee is scheduled to hold a hearing on the bill tomorrow afternoon. The Commission is hopeful that the bill will receive favorable consideration by the Senate and would appreciate this Committee's support in the House.

SB 291, is an Act whose express purpose is, ". . . to eliminate the unorganized borough by including all regions of the state in an organized borough or unified municipality." The Commission recognizes that there are legitimate arguments on both sides of that very thorny issue. In the Commission's view, the matter is a political issue to be addressed by the Legislature.

Members of the Commission have agreed that it is appropriate for our quasi-judicial body to remain neutral in any debate over SB 291. The Commission feels that a neutral stance is critical to maintaining the integrity of its mission – to objectively consider arguments for and against the establishment or alteration of specific municipal boundaries. By either supporting or opposing SB 291, the Commission is certain to be viewed by residents of this state as having a bias when it comes to considering a boundary proposal for their particular region.

HB 427, introduced by your Committee, provides compensation for the Commission. While the Commission recognizes that today's economic climate is less than ideal for such a proposal, it feels strongly that the measure deserves serious consideration. The Department of Community and Regional Affairs has issued a position paper in support of the measure. I will reserve further comment on that bill for your hearing later during your meeting today.

**Prospective 1994 Activities.** I will end my prepared remarks with a brief summary of proposals currently being contemplated for presentation to the Local Boundary Commission. These are based upon reports from the Department of Community and Regional Affairs. In nearly all cases, the reports stem from direct contact between the Department and local officials or residents. However, in a few cases, the accounts may stem from unsubstantiated reports. While it is not possible to accurately predict how many of these proposals will be

# **CORRECTION**

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

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Remarks to House C&RA Committee  
February 22, 1994  
Page Two

The three recommendations for annexation are addressed in moderate detail on pages 18 through 37 of the Commission's report to the Legislature. However, I will discuss them very briefly here:

King Cove. The first involves the proposed annexation of 21 square miles to the City of King Cove. King Cove is located 1,100 miles southwest of here in the Aleutians East Borough. While the area proposed for annexation is inhabited by only 8 residents, it holds substantial development. The area includes all of one subdivision and part of another, the community's airport, a portion of the City's landfill and the City's hydroelectric project (currently under construction). The area also includes sites proposed for the construction of a new port facility and a new water utility system. I will pass around a map showing the area proposed for annexation.

Seldovia. The second and third recommendations involve the proposed annexation, respectively, of 42.8 acres and 1.8 acres to the City of Seldovia. Seldovia is a community located 650 miles west of here in the Kenai Peninsula Borough. Most of the territory proposed for annexation consists of that portion of the Seldovia airport not presently within the boundaries of the City. Because the City's boundaries bisect the community's airport, confusion and uncertainty exist with respect to the levy of city sales taxes and property taxes at the airport. The same holds true for the extension of municipal services and other jurisdictional issues at the airport. The remaining area proposed for annexation contains 13 enclaves or "holes" in the area under the City's jurisdiction. Until recently, those enclaves were believed to have been formally included within the corporate boundaries of the City. For the past 25 years or so, the City has taxed those properties and has extended full services to them. The enclaves are reportedly inhabited by three individuals.

I will pass around three maps showing the collective 44.6 acres proposed for annexation to the City of Seldovia. The first map shows the enclaves that comprise 6.2 acres. The second shows the airport property identified in the City's annexation petition. Together, those two areas comprise the 42.8 acres addressed by the Commission's formal Recommendation Number Two.

Again, the third recommendation proposes a separate annexation of 1.8 acres to the City of Seldovia. That area consists of a segment of the airport that the City had inadvertently omitted from its petition. The Commission filed a separate recommendation for the annexation of that property for procedural reasons.

If the Committee desires additional details concerning any of the three recommended annexations, I can provide you with a copy of the appropriate

decisional documents. Of course, the Commission will also attempt to answer any questions you may have at this time.

**Pending Legislation.** There are three bills that I wish to address briefly.

CSSB 164(CRA) makes technical amendments to the law that have been sought by the Local Boundary Commission for the past several years. I have attached a one-page summary and three-page sectional analysis of the bill. This legislation is vital to the mission of the Local Boundary Commission. The bill is presently before the Senate Judiciary Committee – the last Senate Committee to which the bill has been referred. That Committee is scheduled to hold a hearing on the bill tomorrow afternoon. The Commission is hopeful that the bill will receive favorable consideration by the Senate and would appreciate this Committee's support in the House.

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**Prospective 1994 Activities.** I will end my prepared remarks with a brief summary of proposals currently being contemplated for presentation to the Local Boundary Commission. These are based upon reports from the Department of Community and Regional Affairs. In nearly all cases, the reports stem from direct contact between the Department and local officials or residents. However, in a few cases, the accounts may stem from unsubstantiated reports. While it is not possible to accurately predict how many of these proposals will be

formally presented to the Commission, the length and diversity of the list suggest that 1994 will be another active and interesting year for the Commission.

Generally, the list of prospective activities includes proposals for incorporation of eight boroughs and six cities, annexation to one borough and eight cities, detachment from four boroughs and two cities, dissolution of twelve cities and one borough, and merger or consolidation of municipal governments in three regions. More specifically, the contemplated proposals entail:

- ❖ Borough incorporations in the following regions: Dillingham, North Pole, Wrangell, Petersburg, Kake, Glacier Bay, Portage Pass, and Susitna.
- ❖ Borough annexation by the Ketchikan Gateway Borough.
- ❖ Borough detachments involving the following boroughs: Matanuska-Susitna (as many as 3 proposals), Municipality of Anchorage, Kodiak Island, and Fairbanks North Star (as many as 2 proposals).
- ❖ Borough dissolution of the Matanuska-Susitna Borough.
- ❖ City incorporations in the following communities: Cantwell, Egegik, Nikiski, Gustavus, Sterling, and Port Protection.
- ❖ City annexations by the following cities: Ketchikan, Kodiak, Fairbanks (multiple proposals), Sand Point, Craig, Whittier, Newhalen, and Haines.
- ❖ City detachments in the cities of Unalaska and St. Mary's.
- ❖ City dissolutions involving the following cities: Seldovia, Chefnak, Mekoryuk, Quinhagak, Toksook Bay, Nightmute, Atmoutluak, Kasigluk, Newtok, Tuluksak, Tununak and Angoon.
- ❖ City and borough consolidations or mergers in the Northwest Arctic Borough, Fairbanks North Star Borough and the Ketchikan Gateway Borough.

**Conclusion.** That concludes my prepared remarks. If you have any questions or would like me to elaborate on any of the points that I have covered, please ask. Also, if there are any other issues involving the Commission that you would like to raise, please feel free to do so.

attachments:

- Summary of CSSB 164(CRA)
- Sectional analysis of CSSB 164(CRA)

## SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(CRA)\*

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Summary prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff,  
Department of Community & Regional Affairs, telephone 269-4500*

- ❖ **Establishes mechanism for first class and home rule cities to reclassify as second class cities.** Under current law, such can only be done by dissolving the first class or home rule city and incorporating a second class city.
- ❖ **Provides State oversight concerning all municipal reclassifications.** The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough because it automatically creates new municipal school districts. There are 27 second class cities in the Unorganized Borough that could unilaterally reclassify to first class cities. That represents a potential 50% increase in the number of school districts. Communities which are presently unincorporated could add to that number.
- ❖ **Permits direct incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.** Interest in such options is strong. In 1985, the law was amended to allow direct incorporation of home rule boroughs. Three of the four boroughs formed since that law took effect were home rule boroughs.
- ❖ **Confirms the discretion of the Local Boundary Commission in approving, denying or amending petitions.** The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in dealing with other petitions. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.
- ❖ **Confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution.** A superior court judge recently ruled that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

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\* For further analysis and details concerning the effects of CSSB 164(CRA), see the three-page "Sectional Analysis of CSSB 164(CRA)" prepared by DCRA on January 27, 1994.

## SECTIONAL ANALYSIS

### CSSB 164(CRA)

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Sectional analysis prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff, Department of Community & Regional Affairs, telephone 269-4500*

**Section 1** simply recognizes under AS 14.12.010 what is already provided by AS 29.35.260(b) – that a home rule city in the Unorganized Borough is a city school district.

**Section 2** makes the following changes:

1. It permits a first class or home rule city to reclassify as a second class city.<sup>1</sup>
2. It provides State oversight in the reclassification of any city government.<sup>2</sup>

**Sections 3 - 5** amend procedures for municipal reclassification to further implement State review of reclassification proposals. **Section 3** requires a petition to the Local Boundary Commission to initiate a reclassification proposal. **Section 4** requires the Local Boundary Commission to notify the city upon approval of a reclassification petition, thereby triggering a municipal election on the matter. **Section 5** eliminates references to particular classes of city government, thereby acknowledging that any class of city may be reclassified.

**Section 6** allows incorporation of a home rule city.<sup>3</sup>

**Section 7** allows incorporation of a unified municipality.<sup>4</sup>

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<sup>1</sup> Currently, this can be done only in effect by dissolving the home rule city or first class city and incorporating a second class city – a lengthy and difficult process.

<sup>2</sup> The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough, since such automatically creates new municipal school districts. Yet, under current law the State has no provision to regulate municipal reclassification. There are a total of 27 second class cities in the Unorganized Borough that could reclassify as first class cities. Some are currently exploring the possibility of doing so. There are also 11 unincorporated communities in the Unorganized Borough that could incorporate as second class cities and subsequently reclassify as first class cities. Collectively, those 38 communities represent a potential 70 percent increase in the number of school districts in Alaska. CSSB 164(CRA) assigns responsibility to the Local Boundary Commission to oversee reclassification.

<sup>3</sup> Under current law, forming a home rule city generally requires that a community first become a first class city and then undertake a separate process to adopt a home rule charter. Some communities have shown strong interest in allowing direct incorporation as a home rule city. State law was amended in 1985 to allow direct incorporation of home rule boroughs. Three of the four boroughs incorporated since then have incorporated as home rule boroughs. [Note: the Northwest Arctic Borough is not counted among the four. The Northwest Arctic Borough prepared its petition for incorporation before the 1985 law took effect. However, the Northwest Arctic Borough subsequently reclassified as a home rule borough.]

<sup>4</sup> There are presently three unified municipalities in Alaska – Anchorage, Juneau and Sitka. Under current law, in order to form a unified municipality, there must be both an organized borough and at least one city government. Interest has been expressed in allowing other regions of the state to form unified municipalities. These include areas which may have neither a city government nor an organized borough, or only one of the two.



**Sections 8, 10 - 13 and 19** provide procedures for the incorporation of home rule cities and unified municipalities. **Section 8** amends the law specifying the contents of a petition in the case of proposals for incorporation of home rule cities and unified municipalities. **Section 10** acknowledges that if voters approve incorporation of a home rule city or unified municipality, the home rule charter is adopted. **Section 11** adds a new section providing that incorporation of a unified municipality dissolves all other municipal governments within the boundaries of the unified municipality. **Section 12** extends organizational grants to newly formed unified municipalities, except those that occupy the area formerly occupied by an organized borough.<sup>5</sup> **Section 13** extends transitional assistance to newly incorporated unified municipalities, again, except those that occupy the area formerly occupied by an organized borough. **Section 19** amends current law to acknowledge that any of the following may incorporate as a unified municipality: a) an area which has neither a city government nor an organized borough; b) an area which has one or more city governments, but no organized borough; or c) an area which has an organized borough, but no city governments.

**Sections 9, 14, 17 and 21** confirm that the Local Boundary Commission has discretion in the approval of all petitions that come before it.<sup>6</sup> The referenced sections also confirm that the Commission has broad power to amend such petitions.<sup>7</sup> **Section 9** does so with respect to municipal incorporation, **Section 14** concerns municipal annexation and detachment, **Section 17** addresses merger and consolidation, and **Section 21** confirms the Commission's discretion and authority to amend a dissolution petition; and expressly extends requisite "best interests" determinations to all dissolutions.

**Section 15** confirms that a home rule city or home rule borough may be formed through merger or consolidation.

**Sections 16 and 18** amend existing procedures for merger or consolidation relating to home rule cities and home rule boroughs. **Section 16** provides that a home rule charter

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<sup>5</sup> Boroughs would remain eligible for organizational grants under this bill. The term "municipality" which is substituted for the term "borough" currently used under AS 29.05.190(a) and (b) does not mean only a unified municipality, but includes both boroughs and unified municipalities.

<sup>6</sup> The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in other matters. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.

<sup>7</sup> The Department of Law has concluded that the Local Boundary Commission implicitly possesses such authority. For example, with respect to incorporations, the Department of Law noted, "[the statutes] do not bind the commission to either accept or reject the petition in its entirety . . . the commission is exercising a delegated fact finding function when it considers the creation of a new municipal government. The commission stands in the shoes of the state legislature when it considers these matters. Absent an express limitation on the powers of the commission, the commission should be presumed to possess the same powers as the legislature in this area." (Assistant Attorney General James L. Baldwin, inf. op. July 7, 1987; see also Assistant Attorney General James L. Baldwin, inf. op. May 30, 1984.)



must be included with a petition to form a home rule city or home rule borough through merger or consolidation. **Section 18** states that a charter for a home rule city or home rule borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

**Section 20** makes the statutes consistent in the use of the last regular election of a municipality as the basis for determining the number of signatures needed to file a petition to dissolve that municipality. This is currently the case in all instances except AS 29.06.470(a)(3), which bases the requirement on the last [State] general election.

**Sections 22 - 28** make amendments relating to the creation of a home rule city or home rule borough through merger or consolidation, or the incorporation of a home rule city or unified municipality. **Section 22** acknowledges that a home rule charter may be adopted through merger or consolidation, or as a result of the incorporation of a home rule city or unified municipality. **Section 23** provides that a proposed charter for a home rule municipal government is to be filed with the petition for incorporation, merger or consolidation. **Section 24** requires the Department of Community and Regional Affairs to prepare a model charter for a home rule city and a unified municipality. **Section 25** provides that the proposed charter for a home rule municipality to be formed by incorporation, merger or consolidation must be submitted to the voters for approval. **Section 26** stipulates that, upon certification of favorable election results, the charter becomes the organic law of a home rule municipal government formed by incorporation, merger or consolidation. **Section 27** states that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government the charter is rejected. **Section 28** requires a home rule municipality to file a copy of any amendments to its charter with certain officials.<sup>8</sup>

**Section 29** removes any question that the Local Boundary Commission has legislative authority to adopt regulations providing standards and procedures for municipal incorporation and dissolution.<sup>9</sup>

**Section 30** makes the following changes:

1. It repeals the requirement that a city council hold a public hearing on a proposed reclassification of the city.<sup>10</sup>
2. It repeals the provision that allows a second class city with a population of at least 3,500 permanent residents and jurisdictional boundaries encompassing at least 35 square miles to adopt a home rule charter.<sup>11</sup>

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<sup>8</sup> AS 29.10.080 presently requires a home rule municipal government to file a charter only upon its adoption. Current law requires no filing of amendments.

<sup>9</sup> Superior Court Judge Michael A. Thompson ruled on June 7, 1993 (case No. 1JU-92-1126 CI), that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, Judge Thompson noted that courts need not give the same level of deference to interpretative regulations as it must give to legislative regulations.

<sup>10</sup> Section 2 of CSSB 164(CRA) requires the Local Boundary Commission to conduct such a hearing.

<sup>11</sup> The current law applies to only one of Alaska's 116 second class cities.

# **CORRECTION**

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

must be included with a petition to form a home rule city or home rule borough through merger or consolidation. **Section 18** states that a charter for a home rule city or home rule borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

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**Section 30** makes the following changes:

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HOUSE COMMUNITY AND REGIONAL AFFAIRS

SUBJECT OF MEETING:

LBC - annual Report Pres  
 3 259 - Comp: LBC  
 HB 393

DATE: 2/22/94

PLACE: Rm 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Darroll Hargrave	LBC	3343 Denali Km.	99901	225-8090		Y N	
H. Tomi Salminen	LBC	P.O. Box 141345 Anch	99514	3337692		Y N	
Miyoko Johnson	LBC	P.O. Box 608 Nome, Ak	99762	443/3842	443/5238	Y N	
Frances Hallgren	LBB	403 Lincoln St. Sitka	99835	747-5076	747-6909	Y N	
Shelley Dugan	LBC	219 Kody Bx AK	99701	452-8950	488-2281	Y N	
						Y N	
KAREN BRAND	Rep MOSES			465-(wk) 3765		Y N	opening comments/ Questions on HB 393
Jack Fargnoli	GOV	OMB - Director's Office	99811	3568	3568	Y N	HB 393
Crystal Smith	AML			586-1325	→	Y N	HB 393 ✓
						Y N	
						Y N	

## SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(CRA)\*

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Summary prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff,  
Department of Community & Regional Affairs, telephone 269-4500*

- ❖ **Establishes mechanism for first class and home rule cities to reclassify as second class cities.** Under current law, such can only be done by dissolving the first class or home rule city and incorporating a second class city.
- ❖ **Provides State oversight concerning all municipal reclassifications.** The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough because it automatically creates new municipal school districts. There are 27 second class cities in the Unorganized Borough that could unilaterally reclassify to first class cities. That represents a potential 50% increase in the number of school districts. Communities which are presently unincorporated could add to that number.
- ❖ **Permits direct incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.** Interest in such options is strong. In 1985, the law was amended to allow direct incorporation of home rule boroughs. Three of the four boroughs formed since that law took effect were home rule boroughs.
- ❖ **Confirms the discretion of the Local Boundary Commission in approving, denying or amending petitions.** The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in dealing with other petitions. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.
- ❖ **Confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution.** A superior court judge recently ruled that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

\* For further analysis and details concerning the effects of CSSB 164(CRA), see the three-page "Sectional Analysis of CSSB 164(CRA)" prepared by DCRA on January 27, 1994.



## SECTIONAL ANALYSIS

### CSSB 164(CRA)

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*Sectional analysis prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff, Department of Community & Regional Affairs, telephone 269-4500*

**Section 1** simply recognizes under AS 14.12.010 what is already provided by AS 29.35.260(b) – that a home rule city in the Unorganized Borough is a city school district.

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borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

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<sup>11</sup> The current law applies to only one of Alaska's 116 second class cities.

**FY 95 Unincorporated Community CPMGP Funding Under HB 393**

\$25,000 per community at full funding  
 Funding pro-rated if Unincorporated Account is not fully funded  
 Assumes 60 new eligible communities

	Current Law	With 60 New Eligibles (At Current Funding)	With 60 New Eligibles (Fully Fund)
Unincorporated Communities	68	128	128
Program Funding	\$1,700,000	\$1,700,000	\$3,200,000
Community Allocation	\$25,000	\$13,281	\$25,000
Pro-rating factor	1.000	0.531	1.000

60 new eligible communities would require \$1,500,000 in additional funding to fully fund the unincorporated account.

## FY 95 MUNICIPAL CPMGP FUNDING UNDER HB 393

Assumes \$20 Million In Total CPMGP Funding  
And 60 Additional Eligible Unincorporated Communities

NOTE - - Excludes Additional Population Reduction Effects - - See Last Page

Municipality	CURRENT LAW	WITH 60 NEW ELIGIBLES	DIFFERENCE	%
Akhiok (KIB).....	25,000	25,000		
Akiak.....	25,000	25,000		
Akutan (AEB).....	25,000	25,000		
Alakanuk.....	25,318	25,000 .....	(318)	(1.3%)
Aleknagik.....	25,000	25,000		
Aleutians East Borough (AEB):.....	25,000	25,000		
Allakaket.....	25,000	25,000		
Ambler (NAB).....	25,000	25,000		
Anaktuvuk Pass (NSB).....	25,000	25,000		
Anchorage, Municipality of.....	6,369,920	5,748,218 .....	(621,702)	(9.8%)
Anderson (DB).....	26,416	25,000 .....	(1,416)	(5.4%)
Angoon.....	29,463	26,751 .....	(2,713)	(9.2%)
Aniak.....	25,000	25,000		
Anvik.....	25,000	25,000		
Atka.....	25,000	25,000		
Atmautluak.....	25,000	25,000		
Atkasuk (NSB).....	25,000	25,000		
Barrow (NSB).....	149,613	135,724 .....	(13,889)	(9.3%)
Bethel.....	160,773	145,533 .....	(15,240)	(9.5%)
Bettles.....	25,000	25,000		
Brevig Mission.....	25,000	25,000		
Bristol Bay Borough:.....	55,963	50,768 .....	(5,195)	(9.3%)
Buckland (NAB).....	25,000	25,000		
Chefornak.....	25,000	25,000		
Chevak.....	25,000	25,000		
Chignik (LPB).....	25,000	25,000		
Chuathbaluk.....	25,000	25,000		
Clark's point.....	25,000	25,000		
Coffman cove.....	25,000	25,000		
Cold bay (AEB).....	25,000	25,000		
Cordova.....	110,567	100,303 .....	(10,265)	(9.3%)
Craig.....	54,944	49,843 .....	(5,101)	(9.3%)
Deering (NAB).....	25,000	25,000		
Delta Junction.....	30,764	27,932 .....	(2,832)	(9.2%)
Denali Borough (DB):.....	53,886	48,884 .....	(5,003)	(9.3%)
Dillingham.....	79,111	71,767 .....	(7,344)	(9.3%)
Dionede.....	25,000	25,000		
Eagle.....	25,000	25,000		
Eek.....	25,000	25,000		
Ekwok.....	25,000	25,000		
Elim.....	25,000	25,000		
Emmonak.....	29,423	26,714 .....	(2,709)	(9.2%)
Fairbanks (FNSB).....	844,499	762,076 .....	(82,423)	(9.8%)
Fairbanks North Star Borough (FNSB):....	1,248,162	1,126,342 .....	(121,820)	(9.8%)

## FY 95 MUNICIPAL CPMGP FUNDING UNDER HB 393

*Assumes \$20 Million in Total CPMGP Funding  
And 60 Additional Eligible Unincorporated Communities*

NOTE - Excludes Additional Population Reduction Effects - - See Last Page

Municipality	CURRENT LAW	WITH 60 NEW ELIGIBLES	DIFFERENCE	%
False Pass (AEB).....	25,000	25,000		
Fort Yukon.....	29,626	26,898	(2,728)	(9.2%)
Galena.....	33,365	30,293	(3,072)	(9.2%)
Gambell.....	25,000	25,000		
Golovin.....	25,000	25,000		
Goodnews Bay.....	25,000	25,000		
Grayling.....	25,000	25,000		
Haines (HB).....	51,998	47,171	(4,827)	(9.3%)
Haines Borough (HB).....	36,169	32,839	(3,330)	(9.2%)
Holy Cross.....	25,000	25,000		
Homer (KPB).....	164,227	148,981	(15,246)	(9.3%)
Hoonah.....	39,339	35,717	(3,622)	(9.2%)
Hooper Bay.....	36,738	33,356	(3,382)	(9.2%)
Houston (MSB).....	35,681	32,396	(3,285)	(9.2%)
Hughes.....	25,000	25,000		
Huslia.....	25,000	25,000		
Hydaburg.....	25,000	25,000		
Juneau, City and Borough of (JCB).....	767,920	692,971	(74,949)	(9.8%)
Kachemak (KPB).....	25,000	25,000		
Kake.....	28,935	26,271	(2,664)	(9.2%)
Kaktovik (NSB).....	25,000	25,000		
Kaltag.....	25,000	25,000		
Kasaan.....	25,000	25,000		
Kasigluk.....	25,000	25,000		
Kenai (KPB).....	211,665	191,601	(20,064)	(9.5%)
Kenai Peninsula Borough (KPB).....	680,446	614,034	(66,411)	(9.8%)
Ketchikan (KGB).....	278,208	251,837	(26,371)	(9.5%)
Ketchikan Gateway Borough (KGB).....	178,729	161,788	(16,942)	(9.5%)
Kiana (NAB).....	25,000	25,000		
King Cove (AEB).....	35,397	32,138	(3,259)	(9.2%)
Kivalina (NAB).....	25,000	25,000		
Klawock.....	31,455	28,559	(2,896)	(9.2%)
Kobuk (NAB).....	25,000	25,000		
Kodiak (KIB).....	242,648	219,648	(23,000)	(9.5%)
Kodiak Island Borough (KIB).....	213,361	193,137	(20,224)	(9.5%)
Kodlik.....	25,000	25,000		
Kotzebue (NAB).....	111,473	101,125	(10,349)	(9.3%)
Koyuk.....	25,000	25,000		
Koyukuk.....	35,000	25,000		
Kupreanof.....	25,000	25,000		
Kwethluk.....	26,050	25,000	(1,050)	(4.0%)
Lake and Peninsula Borough (LPB).....	40,111	36,418	(3,693)	(9.2%)
Larsen Bay (KIB).....	25,000	25,000		
Lower Kalskag.....	25,000	25,000		

## FY 95 MUNICIPAL CPMGP FUNDING UNDER HB 393

*Assumes \$20 Million In Total CPMGP Funding  
And 60 Additional Eligible Unincorporated Communities*

NOTE - - Excludes Additional Population Reduction Effects - - See Last Page

Municipality	CURRENT LAW	WITH 60 NEW ELIGIBLES	DIFFERENCE	%
Manokotak.....	25,000	25,000		
Marshall (Fortuna Ledge).....	25,000	25,000		
Matanuska-Susitna Borough (MSB):.....	1,057,120	953,946	(103,175)	(9.8%)
McGrath.....	25,000	25,000		
Mekoryuk.....	25,000	25,000		
Mellakata.....	58,909	53,440	(5,469)	(9.3%)
Mountain Village.....	32,593	29,592	(3,001)	(9.2%)
Napakiaik.....	25,000	25,000		
Napaskiak.....	25,000	25,000		
Nenana.....	25,000	25,000		
New Stuyahok.....	25,000	25,000		
Newhalen (LPB).....	25,000	25,000		
Newtok.....	25,000	25,000		
Nightmute.....	25,000	25,000		
Nikolai.....	25,000	25,000		
Nome.....	157,996	143,328	(14,668)	(9.3%)
Nondalton (LPB).....	25,000	25,000		
Noorvik (NAB).....	25,000	25,000		
North Pole (FNSB).....	63,100	57,242	(5,858)	(9.3%)
North Slope Borough (NSB):.....	87,192	79,098	(8,095)	(9.3%)
Northwest Arctic Borough (NAAB):.....	25,000	25,000		
Nuiqsut (NSB).....	25,000	25,000		
Nulato.....	25,000	25,000		
Nunapitchuk (Akolmiut).....	25,000	25,000		
Old Harbor (K.I.B.).....	25,000	25,000		
Ouzinkie (KIB).....	25,000	25,000		
Palmer (MSB).....	121,027	109,792	(11,236)	(9.3%)
Pelican.....	25,000	25,000		
Petersburg.....	133,224	120,856	(12,368)	(9.3%)
Pilot Point (LPB).....	25,000	25,000		
Pilot Station.....	25,000	25,000		
Platinum.....	25,000	25,000		
Point Hope (NSB).....	27,838	25,275	(2,563)	(9.2%)
Port Alexander.....	25,000	25,000		
Port Heiden (LPB).....	25,000	25,000		
Port Lions (KIB).....	25,000	25,000		
Quinhagak.....	25,000	25,000		
Ruby.....	25,000	25,000		
Russian Mission.....	25,000	25,000		
Saint George.....	25,000	25,000		
Saint Mary's.....	25,000	25,000		
Saint Michael.....	25,000	25,000		
Saint Paul.....	31,008	28,153	(2,855)	(9.2%)
Sand Point (AEB).....	41,349	37,511	(3,839)	(9.3%)



## FY 95 MUNICIPAL CPMGP FUNDING UNDER HB 393

*Assumes \$20 Million In Total CPMGP Funding  
And 60 Additional Eligible Unincorporated Communities*

NOTE - - Excludes Additional Population Reduction Effects - - See Last Page

Municipality	CURRENT LAW	WITH 60 NEW ELIGIBLES	DIFFERENCE	%
Savoonga.....	25,000	25,000		
Saxman (KGB).....	25,000	25,000		
Scammon Bay.....	25,000	25,000		
Selawik (NAB).....	25,887	25,000 .....	(887)	(3.4%)
Seldovia (KPB).....	25,000	25,000		
Seward (KPB).....	102,108	92,629 .....	(9,479)	(9.3%)
Shageluk.....	25,000	25,000		
Shaktolik.....	25,000	25,000		
Sheldon Point.....	25,000	25,000		
Shishmaref.....	25,000	25,000		
Shungnak (NAB).....	25,000	25,000		
Sitka, City and Borough of (SCB).....	291,267	263,658 .....	(27,609)	(9.5%)
Skagway.....	28,447	25,828 .....	(2,619)	(9.2%)
Soldotna (KPB).....	142,400	129,181 .....	(13,220)	(9.3%)
Stebbins.....	25,000	25,000		
Tanana.....	25,000	25,000		
Teller.....	25,000	25,000		
Tenakee Springs.....	25,000	25,000		
Thorne Bay.....	25,887	25,000 .....	(887)	(3.4%)
Togiak.....	31,617	28,706 .....	(2,911)	(9.2%)
Toksook Bay.....	25,000	25,000		
Tuluksak.....	25,000	25,000		
Tununak.....	25,000	25,000		
Unalakleet.....	30,723	27,895 .....	(2,829)	(9.2%)
Unalaska.....	163,018	147,885 .....	(15,134)	(9.3%)
Upper Kalskag.....	25,000	25,000		
Valdez.....	162,414	147,336 .....	(15,078)	(9.3%)
Wainwright (NSB).....	25,000	25,000		
Wales.....	25,000	25,000		
Wasilla (MSB).....	165,435	150,077 .....	(15,358)	(9.3%)
White Mountain.....	25,000	25,000		
Whittier.....	25,000	25,000		
Wrangell.....	99,805	90,539 .....	(9,265)	(9.3%)
Yakutat, City & Borough Of.....	27,269	25,000 .....	(2,269)	(8.3%)
<b>TOTAL:</b>	<b>18,300,000</b>	<b>16,800,000</b>	<b>(1,500,000)</b>	<b>(8.2%)</b>

# Affected: 60

## FY 95 MUNICIPAL CPMGP FUNDING UNDER HB 393

*Assumes \$20 Million In Total CPMGP Funding  
And 60 Additional Eligible Unincorporated Communities*

NOTE - - Excludes Additional Population Reduction Effects - - See Last Page

<u>Municipality</u>	<u>CURRENT LAW</u>	<u>WITH 60 NEW ELIGIBLES</u>	<u>DIFFERENCE</u>	<u>%</u>
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### ADDITIONAL POPULATION EFFECTS ON FUNDING

In addition to the funding effects shown in the table above, HB 393 also requires that the populations of the newly eligible "included" unincorporated communities be deducted from the populations of the boroughs in which they are located. Population estimates for the newly eligible communities have not yet been developed, however, so their effects are not shown in the table. Once these population adjustments are made, the funding levels of the affected boroughs will be reduced below the levels shown in the table. In most cases the effects should not be large, as the populations to be netted out are relatively small.

Source: OMB/JF

[...\\CPMGP\FY95\HB393DIF.XLS ]

Community Name	Recipient Name	Population
Akiachak	Akiachak IRA Council	509
Arctic Village	Arctic Village Traditional Council	113
Beaver	Beaver Tribal Village Council	95
Birch Creek	Birch Creek Village Council	39
Chalkyitsik	Chalkyitsik Village Council	83
Chenega Bay	Chenega Bay IRA Village	95
Chistochina	Chistochina Village Council	63
Chitina	Chitina Village Council	61
Circle	Circle Civic Community Association, Inc.	95
Copper Center	Native Village of Kluti-Kaah	470
Crooked Creek	Crooked Creek Traditional Council	102
Deltana	Deltana Community Corporation	2,397
Dot Lake	Dot Lake Village Council	36
Dot Lake	Dot Lake Services, Inc.	33
Eagle Village	Eagle Village Council	31
Edna Bay	Edna Bay Community Association	88
Elfin Cove	Elfin Cove Community Council	57
Evansville	Evansville Village Council	29
Glennallen	Copper Valley Community Library Association	485
Gulkana	Gulkana Village Council	108
Gustavus	Gustavus Community Association	280
Healy Lake	Healy Lake Traditional Council	51
Hollis	Hollis Community Council	151
Hyder	Hyder Community Association, Inc.	91
Kenny Lake	Kenny Lake Community League	442
Kipnuk	Kipnuk Village Council	511
Klukwan	Chilkat Indian Village Council	130
Koliganek	Koliganek Village Council	194
Kongiganak	Kongiganak Traditional Council	322
Kwigillingok	Kwigillingok IRA Council	291
Lime Village	Lime Village Traditional Council	47
Manley Hot Springs	Manley Hot Springs Community Association	106
Mentasta Lake	Mentasta Lake Village Council	93
Mettlakatla	Mettlakatla Indian Village	1,494
Minto	Minto IRA Council	232
Naukati	Naukati West Inc.	144
Nelchina	Nelchina/Mendeltna Corporation	130
Nenana Area	Four Mile Road Community Council	32
Nikolski	Nikolski IRA Council	25
Northway	Northway Village Council	121
Oscarville	Oscarville Village Council	56

← NEW FY95 PARTICIPANT

24.

Community Name	Recipient Name	Population
Paxson	Paxson Community Affairs	29
Pitka's Point	Pitka's Point Village Council	145
Point Baker	Point Baker Community	51
Port Protection	Port Protection Community Association	51
Rampart	Rampart Village Council	68
Red Devil	Red Devil Corporation	72
Silver Springs	Silver Springs Residents Association	125
Slana	Slana League	35
Slana	Slana Community Corporation	375
Sleetmute	Sleetmute Village Council	105
Stevens Village	Stevens Village IRA Council	93
Stony River	Stony River TVC	58
Takotna	Takotna Community Association, Inc.	37
Tanacross	Tanacross Village Council	89
Tatitlek	Tatitlek Village IRA Council	112
Tazlina	The Association of Tazlina Residents	247
Tetlin	Tetlin Village Council	79
Tok	Tok Community Umbrella Corporation	1,046
Tolsona	Tolsona Community Corporation	75
Tuntutuliak	Tuntutuliak Village Council	298
Twin Hills	Twin Hills Village Council	63
Venetie	Venetie Village Council	231
Whale Pass	Whale Pass Homeowner's Association	77
Wiseman	Wiseman Community Association	35

ATTACHED ARE THREE COMMUNITIES THAT ARE ELIGIBLE FOR REVENUE SHARING BUT DID NOT CHOOSE TO DO SO IN FY 94.

TOTAL = 69

Community	Population
Central	48
Gakona	102
Lake Minchumina	25

Unincorporated Communities Greater than 25 within Organized Boroughs

Borough	Community	Population
Aleutians East Borough	Nelson Lagoon	87
Bristol Bay Borough	King Salmon	746
	Naknek	589
	South Naknek	144
Denali Borough	Cantwell	157
	<del>Ferry</del>	60
	Healy	519
	<del>Lignite</del>	105
	McKinley Park	169
Fairbanks North Star Borough	<del>College</del>	12,110
	<del>Eielson AFB</del>	3,787
	<del>Ester</del>	181
	• Fox	287
	• Harding Lake	27
	• Moose Creek	649
	• Pleasant Valley	468
	• Salcha	350
	• Two Rivers	527
	Haines Borough	<del>Covenant Life</del>
• Lutak		50
Mosquito Lake		89
Kenai Peninsula Borough	Anchor Point	993
	• Clam Gulch	80
	• Coho	550
	Cooper Landing	254
	• Crown Point	72
	• Fox River	401
	<del>Fritz Creek</del>	1,525
	Halibut Cove	68
	• Happy Valley	354
	Hope	161
	Jakolo' Bay	29
	• Kalifonsky	309
	• Kasilof	419
	Moose Pass	95
	Nanwalek	171
	<del>Nikiski</del>	2,867
	<del>Nikolaevsk</del>	425
Ninilchik	485	
Port Graham	163	
Primrose	66	

CROSSED OUT COMMUNITIES  
DO NOT PASS SOCIAL UNIT  
TEST.



Unincorporated Communities Greater than 25 within Organized Boroughs

Borough	Community	Population	
Kenai Peninsula Borough	<del>Ridgeway</del>	2,181	
	Salamatof	1,044	
	<del>Sterling</del>	4,436	
	Tyonek	159	
Kodiak Island Borough	Chiniak	75	
	Karluk	74	
	<del>Kodiak Station</del>	2,016	
	<del>Womens Bay</del>	674	
Lake & Peninsula Borough	Chignik Lagoon	60	
	Chignik Lake	142	
	Egegik	133	
	Igiugig	40	
	Iliamna	92	
	Ivanof Bay	40	
	Kokhanok	139	
	Levelock	105	
	Pedro Bay	50	
	Perryville	110	
	Port Alsworth	66	
	Matanuska-Susitna Borough	Alexander Creek	32
		• Big Lake	1,742
<del>Butte</del>		2,254	
• Chase		41	
Chickaloon		204	
Knik		296	
<del>Lazy Mountain</del>		926	
<del>Meadow Lakes</del>		2,582	
Skwentna		106	
Sutton		311	
Talkeetna		267	
• Trapper Creek		293	
Willow		300	
Municipality of Anchorage	Eklutna	381	
North Slope Borough	<del>Deachorse</del>	25	
	Point Lay	163	
	<del>Prudhoe Bay</del>	32	
Northwest Arctic Borough	Noatak	365	
Total Number:	<del>78</del>		

60

NOTE: COMMUNITIES WITH A  
DOT BY THEIR NAME  
MIGHT ALSO BE ELIMINATED  
IF WE APPLIED REGS  
VERY RIGOROUSLY.

## LOCAL BOUNDARY COMMISSION COMPENSATION

The Local Boundary Commission plays a vital role in setting and carrying out State policy concerning municipal incorporations, dissolutions, annexations, detachments, mergers and consolidations. The importance of the Commission is reflected in the fact that it is one of only five boards established by the State Constitution.<sup>1</sup>

From its inception, arguments have been made that the Commission should be compensated. The Public Administration Service (PAS), recommended to the First Session of the First Alaska Legislature that, "Members of the [Local Boundary] Commission be adequately compensated."<sup>2</sup>

Nevertheless, more than 34 years later, members of the Local Boundary Commission have yet to be compensated for their service. However, the expectations and demands placed on the Commission may now exceed reasonable expectations for unpaid commissioners. Consider the following:

- ✓ The number of municipal governments has quadrupled since the Commission was created. At the time of statehood, there were approximately 40 municipal governments — today, there are 165.
- ✓ The scope of the Commission's responsibilities has grown substantially since it was first formed. The Commission was initially responsible only for municipal annexations and detachments. Today, it is also responsible for municipal incorporations, dissolutions, mergers and consolidations.
- ✓ Initially, the Commission met infrequently. Today, the Commission typically meets about 25 times each year. Meetings are often held in remote locations. This involves extended travel, sometimes under arduous conditions.
- ✓ The Alaska Supreme Court has formally established the expectation that members of the Commission are to be experts in the field of municipal incorporation, annexation, detachment, dissolution, merger and consolidation. To fulfill this expectation, members must spend considerable time preparing for meetings and hearings on matters that are often of a complex and sensitive nature.
- ✓ Issues addressed by the Commission often call forth a very emotional response from the public. Commissioners must have tact, patience and an ability to remain objective while being aggressively challenged.

Bills were introduced in several recent sessions of the legislature to provide compensation of \$150 per day to each Commission member. The fiscal impact of such compensation would be minimal. Using an estimate of 25 one-day meetings per year and compensation of \$150 per day per member, the total cost of compensation would be \$18,750 per year.

Without such compensation, it will likely become increasingly difficult for the State to find qualified Alaskans who are willing to stay on the Commission long enough to give it the desired continuity and experience.

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<sup>1</sup> The others are the Judicial Council, Commission on Judicial Qualifications, Reapportionment Board and the University Board of Regents.

<sup>2</sup> The PAS worked extensively with the Alaska Statehood Committee, Alaska Constitutional Convention and First Alaska Legislature in setting the framework for State government.

# FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to compensation for members of the Local Boundary Commission BRU: Local Government Assistance  
 Component: Local Boundary Commission  
 Sponsor: House C&RA Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 674

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	14.8	14.8	14.8	14.8	14.8	14.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	14.8	14.8	14.8	14.8	14.8	14.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>	<b>14.8</b>

POSITIONS:

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

Estimate of current (FY94) impact \$ none

**ANALYSIS:** (Attach a separate page if necessary)  
 The above cost estimates were developed by staff in the Municipal and Regional Assistance Division who serve as staff to the Local Boundary Commission. These estimates are based on the following assumptions:  
 1) The five-member board will meet 18 times each year.  
 2) Half of the meetings will require travel; the other half will be conducted by teleconference  
 3) The Commission's attendance rate at meetings will be 94%.  
 4) On occasions when the Commission travels to conduct meetings, each member will be on travel status an average of two and one-half days. (continued on separate sheet)

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Division of Administrative Services Date: 2/15/94  
 Approved by Commissioner: *Ed. Berry* Date: 2/15/94  
 Agency: Community & Regional Affairs

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Fiscal Note Analysis Continued

- 5) The Commission will adopt regulations to pay 50% compensation for partial days during which a member is engaged in travel.

Estimate of Costs:

Meetings by teleconference: 5 members X 9 meetings X 94% attendance X  
\$100 rate of compensation = \$4,230.

Meetings involving travel: 5 members X 9 meetings X 94% attendance X  
two and one-half days X \$100 = \$10,575.

Total Cost: \$14,805.

STATE OF ALASKA  
DEPARTMENT OF COMMUNITY  
& REGIONAL AFFAIRS

POSITION PAPER

Bill no.: HB 427  
Sponsor: C&RA by Request

DCRA FN: 14.8 (attached)  
Position: Support

**Title:** An Act relating to compensation for members of the Local Boundary Commission

**Effects:** The bill would provide compensation to the Local Boundary Commission at the rate of \$100 for each day or portion of each day that a member of the Commission is engaged in official business or travel related to official business. It allows the Commission to adopt regulations to provide for partial compensation for partial days during which a member is engaged in travel.

**Comments:** The Department of Community and Regional Affairs, which serves as staff to the independent Local Boundary Commission, fully supports this bill.

The demands placed on the Commission have grown beyond what can be reasonably expected of unpaid members. Given the exclusive role that the Commission plays in the establishment and alteration of municipal government boundaries, this compensation proposal is a wise investment in the future of this state. Please consider the following:

- ❖ The Alaska Supreme Court has consistently acknowledged the expertise of the Commission in all matters involving municipal boundary proposals. In doing so, the state's highest court has placed lofty expectations and demands on the Commission. These compel members of the Commission to dedicate substantial time evaluating complex and controversial proposals. Often, the record before the Commission on a single issue will exceed 1,000 pages.
- ❖ The Alaska Constitution gives the Commission exclusive authority over all municipal boundary proposals. These include petitions for city and borough incorporation, annexation, detachment, dissolution, merger and consolidation.
- ❖ The Commission formulates fundamental policies that have important statewide political, economic and social implications. Again, such responsibilities dictate that the Commission be both prudent and diligent in carrying out its duties.
- ❖ The Commission is one of only five boards with origins in the State Constitution. The others are the Judicial Council, Commission on Judicial Qualifications, Reapportionment Board and the University Board of Regents. The Board of Regents and the Reapportionment Board are compensated in some fashion. Further, the two judicial boards include at least some members who are salaried state judges. The work of the Commission is most similar to the Reapportionment Board which is compensated at the rate of \$150 per day.

- ❖ With few exceptions, the demands and expectations placed on the Commission appear to be at least comparable to the twenty or so state boards and commissions that are presently compensated. Exceptions are limited to the three full-time salaried commissions.
- ❖ There are 165 municipal governments in Alaska today. That number is more than quadruple the number that existed at statehood. Even then, the Public Administration Service — which played a central role in setting the framework for State government — recommended to the First Session of the First Alaska Legislature that members of the Local Boundary Commission be compensated.
- ❖ Beside the fourfold increase in the number of municipalities since statehood, the scope of the Commission's responsibilities has grown substantially since its creation. Initially, the Commission was responsible only for municipal annexations and detachments. The courts handled other municipal boundary matters. Over the years, responsibility for municipal incorporations, dissolutions, mergers and consolidations has been shifted from the courts to the Commission. Not only has this relieved the courts of a substantial burden, but all municipal boundary issues are now placed before a single expert body. CSSB 164(CRA) would add to the duties of the Commission.
- ❖ The Commission typically meets about 20 times each year. Travel and participation at meetings of the Commission take members away from their paying professions, often requiring substantial financial sacrifice on the part of each Commission member.
- ❖ Meetings are often held in remote locations. This involves extended travel, sometimes under arduous conditions.
- ❖ The fiscal impact of such compensation would be minimal. Based upon the attached fiscal note, the Department estimates that the annual cost will be less than \$15,000.

*Ed Blatchford*

\_\_\_\_\_  
Edgar Blatchford  
Commissioner

*Feb 12-94*

\_\_\_\_\_  
Date



# REPORT OF THE LOCAL BOUNDARY COMMISSION TO THE SECOND SESSION OF THE EIGHTEENTH ALASKA LEGISLATURE

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January 19, 1994



*Darroll Hargraves, Chairperson, at-large*  
*Shelley Dugan, Vice-Chairperson,*  
*4th Judicial District*



*Frances Hallgren, 1st Judicial District*  
*Myrtle Johnson, 2nd Judicial District*  
*H. Toni Salmeier, 3rd Judicial District*

# REPORT OF THE LOCAL BOUNDARY COMMISSION TO THE SECOND SESSION OF THE EIGHTEENTH STATE LEGISLATURE

---

January 19, 1994

## **LOCAL BOUNDARY COMMISSION**

Darroll Hargraves, Chairperson, at-large  
Shelley Dugan, Vice-Chairperson, 4th Judicial District  
Frances Hallgren, Member, 1st Judicial District  
Myrtle Johnson, Member, 2nd Judicial District  
H. Toni Salmeier, Member, 3rd Judicial District



Walter J. Hickel, Governor



Report prepared with assistance from:  
Department of Community and Regional Affairs  
Edgar Blatchford, Commissioner

Municipal and Regional Assistance Division  
Robert Walsh, Director

## **For further information contact:**

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Anchorage, AK 99501-2341  
Telephone: (907) 269-4500  
Fax: (907) 269-4539



## CHAIRMAN'S MESSAGE

1993 was an active year for the Local Boundary Commission. The Commission met on twenty occasions over the past 12 months.

During the year just ended, 12 municipal annexations were implemented or approved. In some cases, petitions requesting the boundary changes were amended by the Commission prior to approval. The Commission also denied one annexation petition.

Three of the annexations that were approved by the Commission during 1993 are subject to review by the Legislature. Formal recommendations for these annexations are included in this report. Under Article X, § 12 of Alaska's Constitution, these recommendations gain automatic legislative approval 45 days after the filing of this report (or at the end of the session, whichever is earlier) unless denied by concurrent legislative resolution.

This report also includes details about other activities of the Commission during the year just ended. These include information about petitions which have been filed but not yet acted upon, boundary proposals being considered at the local level and the status of pending litigation involving the Commission.

Additionally, the report raises special issues that the Commission wishes to bring to the attention of the Legislature. Certain of these issues have been raised in prior years. Of particular interest to the Commission is the recommendation that the Legislature adopt CSSB 164(CRA).

1994 promises to be even more active and exciting for the Commission. As noted in the report, a number of Alaska's 165 municipal governments and 100 or so unincorporated communities and regions have filed or are preparing proposals to come before the Commission in 1994. Certain of these will involve crucial policy issues relating to the dissolution of cities and the establishment and alteration of borough boundaries.

The Commission looks forward to the Legislature's consideration of the three formal recommendations and other topics addressed in this report.

Cordially,

A handwritten signature in cursive script that reads "Darroll R. Hargraves".

Darroll R. Hargraves  
Chairman, Local Boundary Commission



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# CHAPTER I OVERVIEW - LOCAL BOUNDARY COMMISSION

## ROLE AND PURPOSE OF THE COMMISSION

The Alaska Constitution and statutes provide that decisions concerning the establishment and alteration of municipal boundaries are to be made at the state level.<sup>1</sup> This was done to

**“An examination of the relevant minutes of [the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section [of the Constitution] was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level.”**

*Alaska Supreme Court - 1962  
Fairview Public Utility Dist. vs. City of Anchorage*

ensure that arguments for and against municipal boundary proposals would be analyzed objectively, taking areawide and statewide needs into consideration. The Local Boundary Commission (LBC) was created by the Alaska Constitution to carry out those responsibilities.<sup>2</sup>

The work of the LBC typically requires broad judgments of political, economic and social policy.<sup>3</sup> Pursuant to statutory authority, the LBC has developed standards and procedures to guide its discretion in determining whether a municipal boundary

petition should be accepted, amended or rejected.<sup>4</sup>

## DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

The Alaska Constitution also called for a State agency to advise and assist local governments.<sup>5</sup> The Department of Community & Regional Affairs (DCRA) serves in that capacity. In addition to its more general duty to aid local governments, DCRA provides staff, research and assistance to the LBC. In its role as LBC staff, DCRA investigates municipal boundary proposals and prepares reports to the LBC conveying DCRA's recommendations.

The LBC staff also offers technical assistance to petitioners and other parties interested in municipal boundary proposals. Additionally, the LBC staff maintains the official records of the Commission, as well as the official records concerning the corporate status of each of Alaska's 165 municipal governments.

<sup>1</sup> Alaska Constitution Article X, §12; AS 29.05; AS 29.06.

<sup>2</sup> Fairview Public Util. Dist. No. 1 v. City of Anchorage, 368 P.2d 540, 543 (Alaska 1962).

<sup>3</sup> Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147, 1155 (Alaska 1974); Mobil Oil Corp. v. Local Boundary Comm'n., 518 P.2d 92, 98 (Alaska 1974); Valleys Borough Support Committee v. Local Boundary Commission, Slip Op. No. 4022 (Alaska November 12, 1993).

<sup>4</sup> 19 AAC 10.

<sup>5</sup> Alaska Constitution Article X, § 14

### PROCEDURES

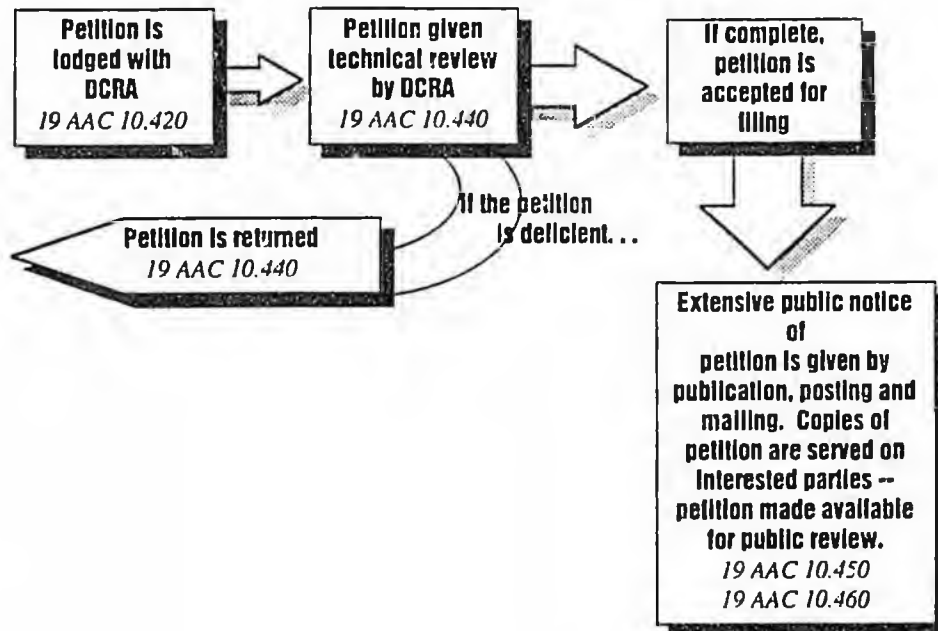
Procedures for establishing and altering municipal boundaries are designed to ensure that decisions regarding such matters are based upon complete information and analysis of the facts, the applicable legal standards and with due consideration to the position of interested parties. Procedures used by the LBC are crafted to secure the reasonable, timely and inexpensive determination of every proposal to come before it. The procedures include extensive public notice and opportunity to comment, thorough study, public informational meetings, public hearings, a decisional meeting of the LBC, and opportunity for reconsideration by the LBC. A summary of the procedures is presented below.<sup>6</sup> Examples of the manner in which the procedures were implemented in two cases during the past year are provided in Chapter III.



<sup>6</sup> When a boundary proposal is relatively simple and supported by the owners and resident voters of the territory, streamlined procedures may apply. Additionally, in any case, the LBC may relax or suspend a procedural requirement if it determines that a strict adherence would work injustice or result in a substantially uninformed decision.

#### STAGE ONE – FILING OF PETITION

DCRA offers technical assistance and petition forms to prospective petitioners. Parties are routinely encouraged to submit draft petitions to DCRA for technical review before gathering signatures. This minimizes the chance that a petition will be rejected on technical grounds. The following steps occur once a petition is formally lodged with DCRA.





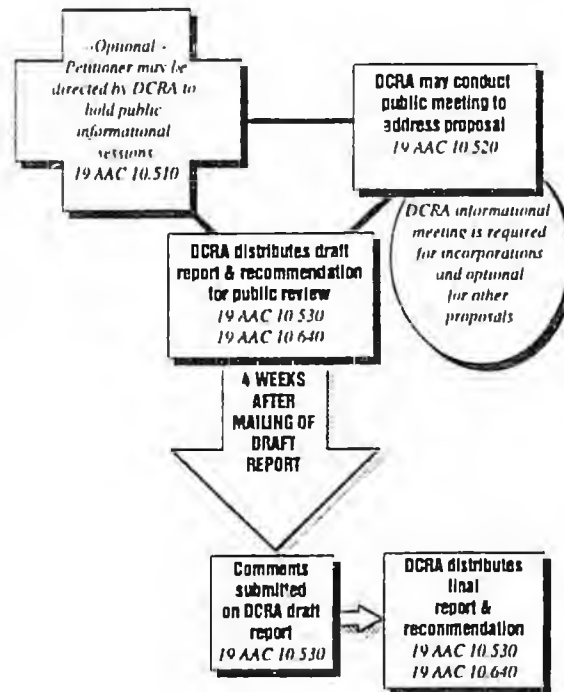
**STAGE TWO – PUBLIC COMMENT**

Individuals and organizations are given at least seven weeks to submit responsive briefs and comments in support of or in opposition to a petition. Those who file briefs are designated as respondents and gain certain procedural rights throughout the proceeding. The petitioner may file one brief in reply to all the responsive briefs. These steps and the regulations that govern them are outlined below.



**STAGE THREE – ANALYSIS**

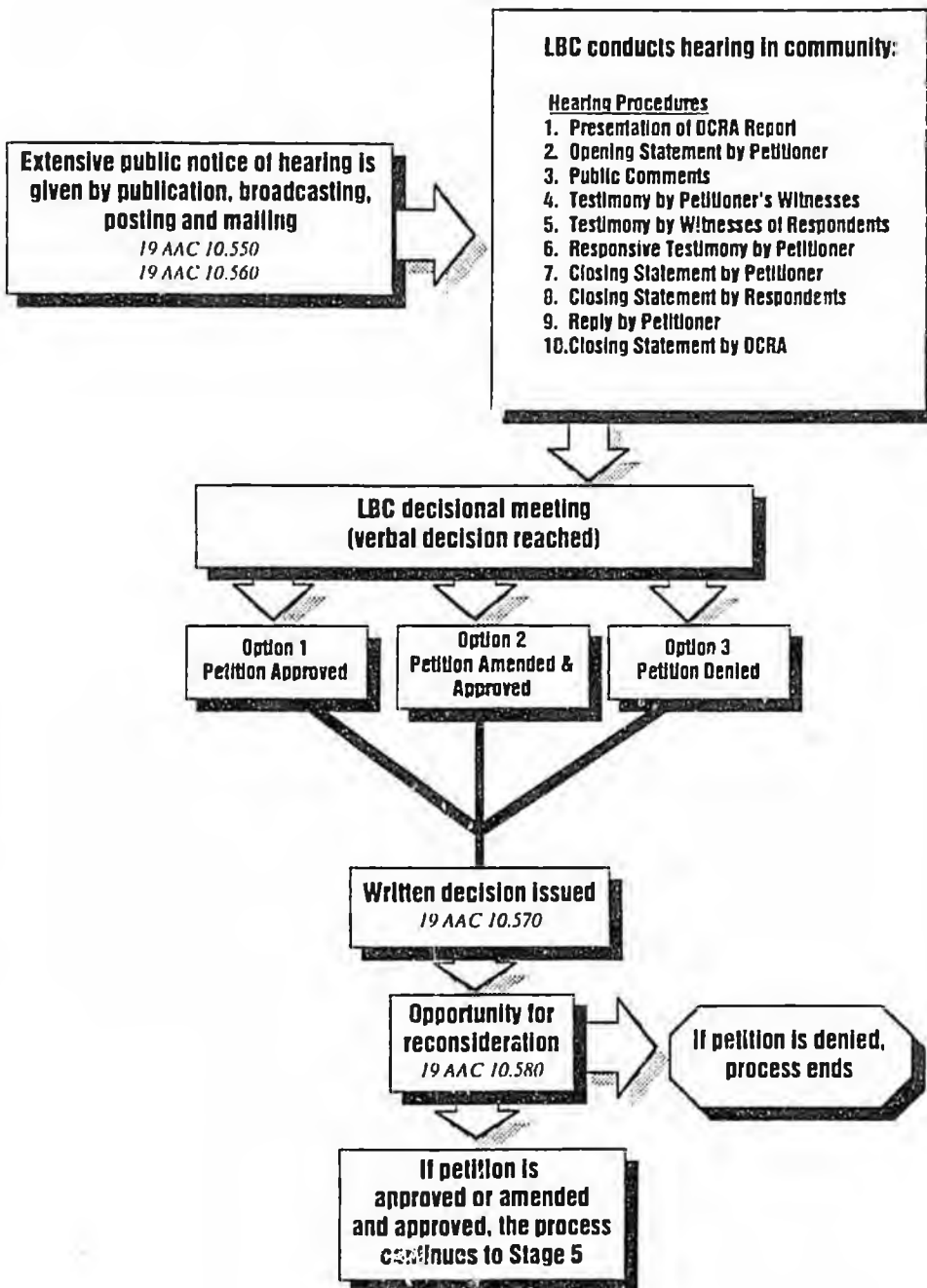
DCRA analyzes the petition, responsive briefs, written comments, reply brief and other materials as part of its investigation of a boundary proposal. Informational meetings may be conducted by the petitioner and DCRA to gather additional information. DCRA then issues a preliminary report. Following public review and comment on the preliminary report, DCRA issues its final report containing recommendations to the LBC. The steps associated with this stage are summarized below.





**STAGE FOUR – HEARING, DECISION & RECONSIDERATION**

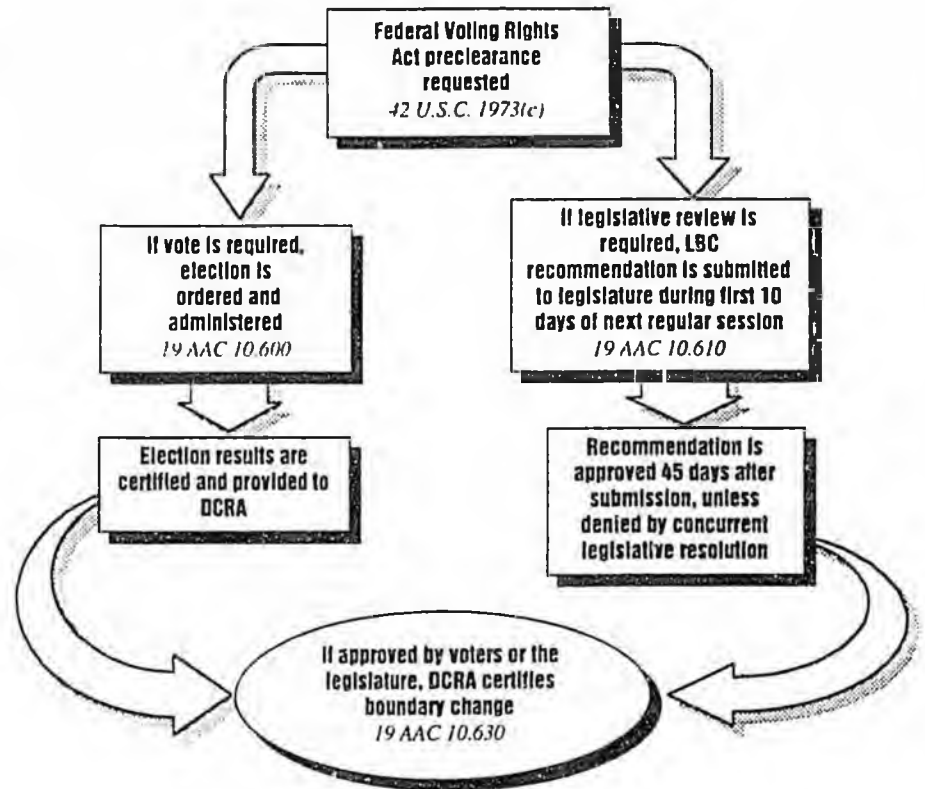
Before a public hearing, members of the LBC carefully review the petition, responsive briefs, written comments, reply brief and DCRA reports. Typically, Commission members also tour the area in question to gain a better understanding of the proposal. The steps involved in the hearing, decision and reconsideration are summarized below.





### STAGE FIVE – IMPLEMENTATION

If the Commission accepts or amends a petition, the proposal may be subject to approval by the voters at a state or municipal election or by the legislature. The following is a summary of this final stage.





## MEMBERSHIP



The LBC consists of five members appointed by the Governor for staggered five-year terms. The chairperson is appointed from the state at-large. Additionally, one member is appointed from each of the state's four judicial districts.

Members of the Commission serve without compensation. The present members of the Local Boundary Commission are:

**Members of the Local Boundary Commission are appointed, "on the basis of interest in public affairs, good judgment, knowledge and ability in the field, . . . and with a view to providing diversity of interest and points of view in the membership."**<sup>7</sup>



**Darroll Hargraves, Chairperson:** Commissioner Hargraves is a resident of Ketchikan. He joined the Commission in March 1991,

and was appointed Chairperson on May 27, 1992. Commissioner Hargraves has been a school superintendent in Ketchikan and Nome and has taught school in Barrow, Kivalina and Gambell. He has also been an administrator at the University of Alaska, Fairbanks. Mr. Hargraves currently works as a communications and management consultant. His present term expires on January 31, 1997.



**Shelley Dugan, Vice-Chairperson, 4th Judicial District:** Commissioner Dugan lives in Fairbanks. She was appointed to the Commission in September 1987. In 1988, she became Vice-Chairperson. Commissioner Dugan owns and operates a small business and serves as the Clerk/Treasurer of the City of North Pole. Her current term expires January 31, 1995.



<sup>7</sup> AS 39.05.060.



**Frances Hallgren, 1st Judicial District:** Commissioner Hallgren lives in Sitka. She was appointed to the Commission in May 1992. She is a former music teacher and currently works as a legal secretary. She also operates a home custom sewing business. Her present term expires January 31, 1996.



**Myrtle Johnson, 2nd Judicial District:** Commissioner Johnson began her present term on the Commission in 1991. She had served on the Commission previously under Governor Miller. Commissioner Johnson lives in Nome and works at the Nome Senior Citizens Center. Her current term expires January 31, 1994.



**H. Toni Salmeier, 3rd Judicial District:** Commissioner Salmeier joined the Commission in April 1993. She is a resident of Anchorage. Commissioner Salmeier owns and operates a small business serving tourists on remote fishing and hunting trips. She also manages real estate. Commissioner Salmeier has served on a number of community boards. These include the Zoning Board of Appeals for the Municipality of Anchorage. Her present term on the Commission ends January 31, 1998.

## CHAPTER II

# SUMMARY OF 1993 ACTIVITIES



**D**uring 1993, varying degrees of interest were expressed by local government officials and residents in almost every type of proposal that may conceivably come before the LBC. These include city and borough incorporations, annexations, detachments, dissolutions, mergers and consolidations. In several instances, formal petitions were filed and action was taken by the LBC. In some cases petitions for municipal boundary proposals are being prepared. In other cases, local officials or residents are exploring particular proposals.

This chapter summarizes the various activities that occurred during 1993. Also included is a report of the status of Supreme Court and Superior Court appeals stemming from decisions of the LBC.

### CITY ANNEXATIONS

During 1993, nine annexations to cities took effect. These consisted of the following.

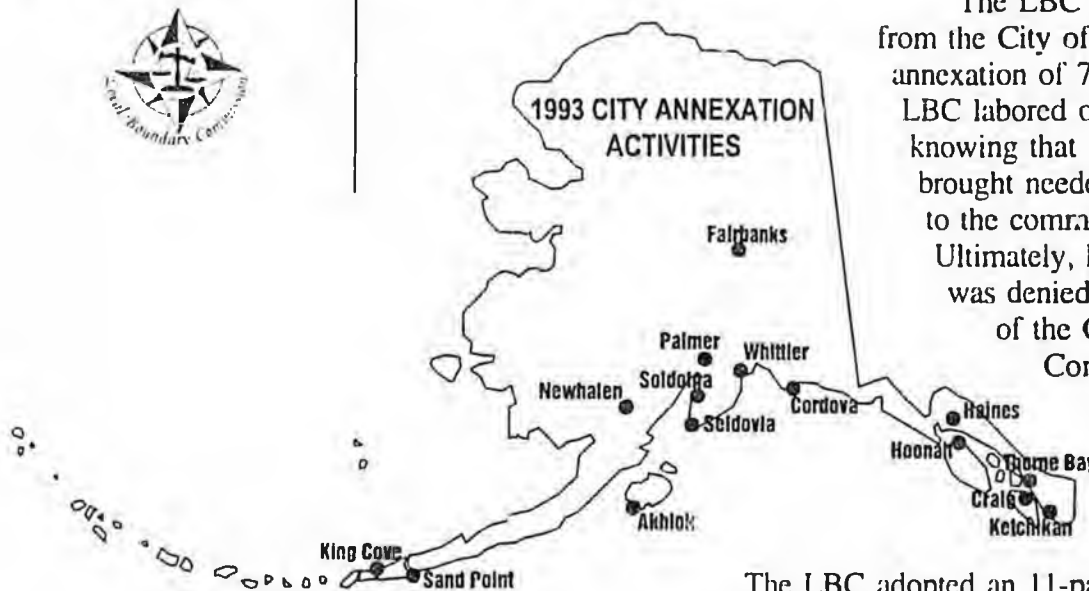
- Cordova** (68.23 square miles - effective March 30, 1993)
- Palmer** (7.5 acres - effective September 24, 1993)
- Hoonah** (7.25 square miles - effective March 30, 1993)
- Haines** (4.75 square miles - effective March 24, 1993)
- Haines** (separate annexation of 11 square miles - effective March 24, 1993)
- Fairbanks** (300.3 acres - effective July 26, 1993)
- Seldovia** (10 acres - effective February 4, 1993)
- Soldotna** (1.45 acres - effective April 2, 1993)
- Thorne Bay** (6 square miles - effective April 9, 1993)

In addition, the LBC approved three other city annexations, subject to review by the 1994 Legislature. Briefly, these consisted of the following:

**King Cove** (21 square miles). Details of the annexation, including the formal recommendation for the annexation begin on page 19.

**Seldovia** (42.8 acres). Details of the annexation, including the formal recommendation for the boundary change begin on page 25.

**Seldovia** (1.8 acres). Details of the annexation, including the formal recommendation for the annexation begin on page 33.



The LBC denied a petition from the City of Akhtok for the annexation of 71 square miles. The LBC labored over the decision knowing that approval would have brought needed financial benefits to the community of 81 residents. Ultimately, however, the petition was denied by unanimous vote of the Commission. The Commission concluded that the petition failed to meet the standards governing annexation of territory to cities.

The LBC adopted an 11-page decisional statement on November 9, 1993, explaining the major considerations that led to the denial of the petition. A copy of the decisional statement is available upon request.

The City of Sand Point lodged a formal petition for annexation of 32 square miles in the fall of 1993. Following a technical review of the petition, DCRA accepted the petition for filing in November. The petition is currently in the public comment stage. The LBC will hold a hearing on the petition later this year.

Several cities are developing annexation proposals or are considering doing so. These include the Cities of Fairbanks (multiple proposals), Haines, Whittier, Craig, Newhalen, and Ketchikan.

### CITY DISSOLUTIONS

State law provides that DCRA "shall investigate a municipality that it considers to be inactive and shall report to the Local Boundary Commission on the status of the municipality. The commission may submit its recommendation to the legislature that the municipality be dissolved in the manner provided for submission of boundary changes in art. X, sec. 12 of the state constitution."<sup>8</sup> DCRA has identified the following five cities that it believes have been inactive for three or more years.

- Atmautluak
- Kasigluk
- Tuluksak
- Newtok
- Tununak

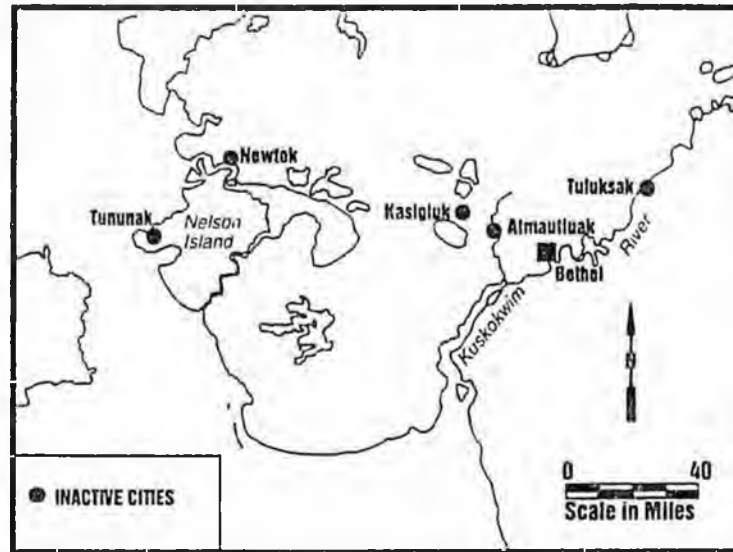
8 AS 29.06.450(b).

It is anticipated that the proceedings for the dissolution of the five cities in question will present the LBC with several fundamental policy issues. Some will involve basic questions such as the role of cities – as compared to

village governments and non-profit corporations – in the delivery of community services. The LBC is certain to be faced with other critical issues concerning the consequences of dissolution. For example, if the cities dissolve, their assets and liabilities are transferred to the State.<sup>9</sup> Ideally, arrangements will be made wherein the communities maintain responsibility for and control over facilities needed to provide local services. Too, the State must be prudent in accepting liabilities that rightfully belong at the local level (e.g., indebtedness, potentially contaminated landfills & bulk fuel storage facilities, et cetera). One solution may be for the State to reconvey appropriate lands to some suitable organization in the community as authorized by AS 44.47.150(a)(2).

DCRA's investigation into this matter began last September. The LBC anticipates holding hearings this fall. If the LBC approves the dissolution of any of the cities in question, it is expected that formal recommendations for dissolution will be filed with the Legislature in January 1995.

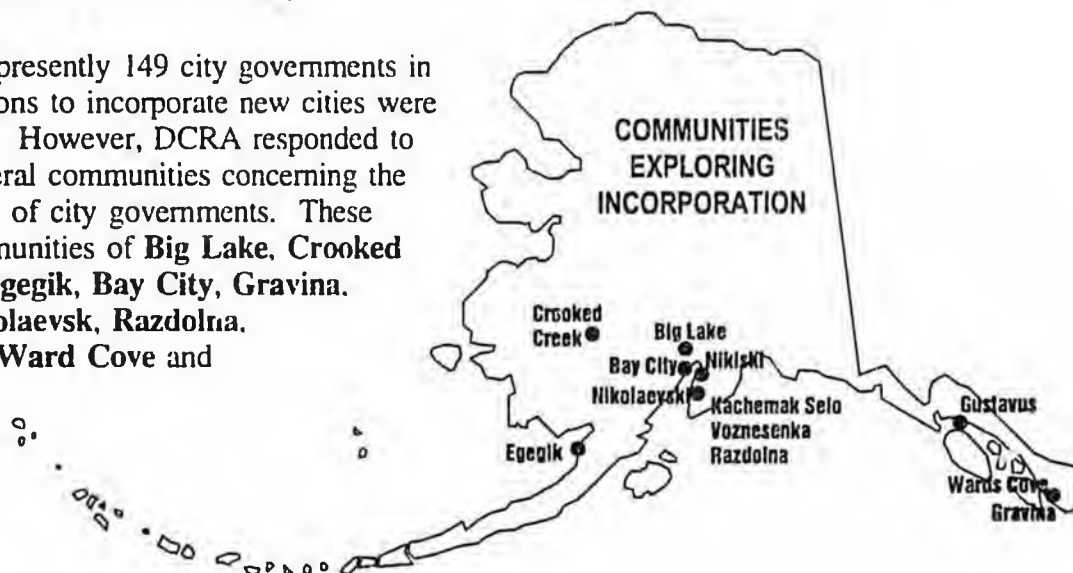
Residents of other communities have expressed interest in dissolving their city governments. These include the communities of **Chefornak, Mekoryuk, Nightmute, Quinhagak, Tooksof Bay, St. Mary's and Seldovia**. At the end of last year, a petition for the dissolution of the City of Seldovia was being prepared.



<sup>9</sup> AS 29.06.520

### CITY INCORPORATIONS

There are presently 149 city governments in Alaska. No petitions to incorporate new cities were filed during 1993. However, DCRA responded to inquires from several communities concerning the possible formation of city governments. These included the communities of **Big Lake, Crooked Creek, Nikiski, Egegik, Bay City, Gravina, Voznesenka, Nikolaevsk, Razdolna, Kachemak Selo, Ward Cove and Gustavus**.







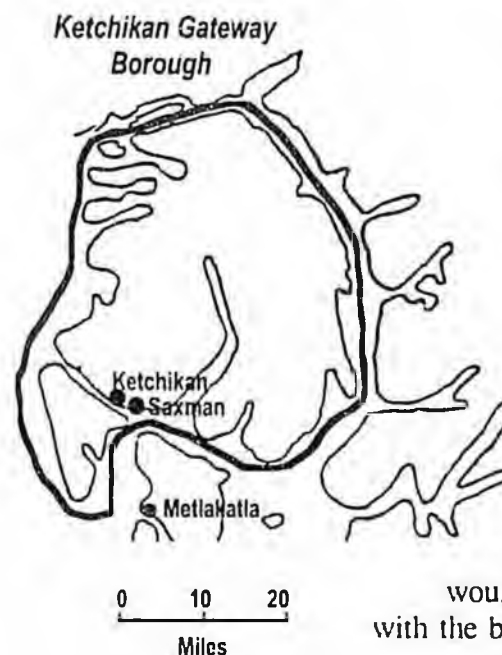
## CITY DETACHMENTS

Officials of the City of Unalaska were contemplating detaching limited areas within the corporate boundaries of that city. They requested and were provided petition forms and information concerning detachment. However, no petition has yet been filed. Forms to petition for the detachment of territory from a city were also provided to a resident of the City of St. Mary's. No petition has been filed in that case either.

## CITY/BOROUGH CONSOLIDATION OR MERGER

Consolidation is the creation of a new municipality from two or more existing municipalities. The original municipalities are automatically dissolved when the consolidation takes effect. Merger occurs when two or more municipalities join and all but one is dissolved. Unlike unification, consolidation or merger does not require the joining of a borough with all the cities within its boundaries, nor does it prevent the incorporation of new cities within the borough boundaries.

No petitions for merger or consolidation were filed during 1993. However, three regions of the state are actively pursuing or exploring the possibility of consolidation or merger. These consist of the following.



The Ketchikan City Council unanimously approved a resolution authorizing the City to petition for the consolidation of the City of Ketchikan with the Ketchikan Gateway Borough. The petition is currently under development. The proposal envisions the creation of a new home rule borough. The City of Saxman would be within the boundaries of the consolidated borough, but would not be legally consolidated with the borough government.





Residents of the **Fairbanks North Star Borough** began circulating a petition to consolidate the City of **Fairbanks** with the Fairbanks North Star Borough. Under the proposal, the City of **North Pole** would remain within the corporate boundaries of the consolidated borough, but would continue to exist as a city government. At last report, the petition drive had secured only about half of the required signatures.



Officials and residents of the **Northwest Arctic Borough** are currently exploring the merits of consolidating the Borough with the Cities of **Deering, Buckland, Selawik, Noorvik, Kiana, Ambler, Shungnak, Kobuk and Kivalina**. As envisioned, the City of **Kotzebue** would be within the boundaries of the consolidated borough, but would remain incorporated as a city. The unincorporated village of **Noatak** would also be included within the boundaries of the consolidated borough.

It is also noteworthy that while the **Kodiak Island Borough** Assembly had adopted a resolution in 1992 directing that a petition for the consolidation of the Borough and the City of **Kodiak** be filed, the resolution was rescinded by the Assembly in February of 1993.

## BOROUGH INCORPORATIONS

Several regions of the state are exploring borough formation at various levels. These activities are summarized below:

**North Pole Borough.** In November, voters began circulating a petition to incorporate a new borough encompassing 9,350 square miles. The proposed borough includes the communities of **North Pole, Two Rivers, Salcha, Chena Hot Springs and Eielson Air Force Base**. The petition had not been lodged with DCRA by the end of last year.

**Dillingham Region Borough.** The **Bristol Bay Coastal Resource Service Area** conducted a study to determine the feasibility of forming a borough in that region. Communities in the region include **Togiak, Manokotak, Clark's Point, Dillingham, Aleknagik, Ekwook, New Stuyahok, Ekuk, Portage Creek and Twin Hills**. The



**The Dillingham City Council adopted a resolution supporting "consideration of the creation of a borough in the Nushagak/Togiak drainage area" and establishing a borough formation com-**

study concluded that a borough was financially viable. The Dillingham City Council adopted a resolution supporting "consideration of the creation of a borough in the Nushagak/Togiak drainage area" and establishing a borough formation committee.

**Wrangell Borough.** Officials of the City of Wrangell are contemplating a borough encompassing the community of Wrangell and possibly the outlying settlement of Thom's Place.

**Petersburg Borough.** Officials of the City of Petersburg are studying the prospects of forming a borough. Officials and residents of the nearby City of Kupreanof have expressed opposition to inclusion of that community in a Petersburg Borough proposal.

**Kake Borough.** Officials of the City of Kake have launched a formal study of the merits of incorporating a Kake Borough.

**Prince of Wales Island Borough.** In May of last year, representatives from Prince of Wales Island communities met to discuss aspects of forming a borough encompassing Prince of Wales Island. Communities on the Island include Hydaburg, Craig, Klawock, Thorne Bay, Kasaan, Coffman Cove, Edna Bay, Whale Pass, Port Protection and Point Baker.

**Portage Pass Borough.** Preliminary discussions have occurred among residents of Whittier and Girdwood about a possible Portage Pass Borough. As envisioned, the Borough might include the communities of Bird Creek, Indian, Girdwood, Portage, Chenega and Whittier.

**Glacier Bay Borough.** Officials of the City of Hoonah have reportedly expressed interest in forming a Glacier Bay Borough. As envisioned, the Borough would encompass the communities of Hoonah, Gustavus, Pelican, Elfin Cove, and Tenakee.

**Susitna Borough.** In December of 1993, a group of Talkeetna residents began exploring the prospects of forming a Susitna Borough. The proposal would necessitate detachment of territory from the Matanuska-Susitna Borough.

## **BOROUGH DETACHMENTS**

Two borough detachment petitions were lodged with DCRA during 1993. In February, a petition to detach North Pole and Salcha from the

**Fairbanks North Star Borough** was rejected on technical grounds. The petition was not accepted for filing because it lacked sufficient qualified signatures and had other deficiencies. The petition organizer recently indicated that she plans to refine the proposal and file a new petition in early 1994. It is intended that this petition would compete with another petition for detachment from the Fairbanks North Star Borough. That other petition is noted below.

In November 1993, a petition began circulating to detach an estimated 5,400 square miles from the **Fairbanks North Star Borough**. The area encompasses the settlements of **North Pole, Salcha, Eielson Air Force Base, Chena Hot Springs** and **Two Rivers**. That petition is part of the effort reported earlier to incorporate the **North Pole Borough**. The detachment petition proposes to reduce the boundaries of the **Fairbanks North Star Borough** to include only the communities of **Fairbanks, Fox** and **Ester**.

**Lake Louise** property owners were exploring a proposal for detachment of territory from the **Matanuska-Susitna Borough**. No petition has yet been filed.

**Kodiak Island Borough**. A resident of **Chiniak** requested forms to petition for the detachment of territory from the **Kodiak Island Borough**. The proposal envisions separating the villages within the Borough from the community of Kodiak. Communities within the Borough include **Akhiok, Old Harbor, Karluk, Larsen Bay, Kodiak, Port Lions, Womans Bay, Chiniak, Ouzinkie** and **Afognak**.

## BOROUGH ANNEXATIONS

Officials of the **Ketchikan Gateway Borough** are contemplating a proposal to annex the **Misty Fjords National Monument**. Petition forms were provided to the Borough in November, however, no petition has yet been filed.

## BOROUGH DISSOLUTIONS

In November, a group of residents from **Talkeetna** and **Chase** indicated that they intended to petition for the dissolution of the **Matanuska-Susitna Borough**. This group is separate from the one noted earlier that is exploring the formation of a **Susitna Borough**. Petition forms were provided to the group, however, no petition has yet been filed. Communities within the **Matanuska-Susitna Borough** include **Wasilla, Palmer, Houston, Big Lake, Talkeetna, Chase, Sutton, Chirkaloon, Skwentna, Susitna, Knik, Nelchina** and **Lake Louise**.





## LITIGATION

Six cases involving the Local Boundary Commission were pending before the Alaska Supreme Court and Superior Courts during 1993. The status of each of these cases is summarized in this section of the report. Further details concerning the status of any of these matters is available upon request.

**David Shaw, Valleys Borough Support Committee vs. Local Boundary Commission.** On November 12, 1993, the Alaska Supreme Court affirmed a 1992 Superior Court decision upholding the incorporation of the Denali Borough. The ruling was the first Supreme Court decision directly relating to the LBC in 19 years. While the ruling established no new legal principles, it cemented the Supreme Court's long-standing views regarding the LBC and the formation of boroughs. Specifically, the high court affirmed its previous dictum that:

*[A] determination whether an area is cohesive and prosperous enough for local self-government involves broad judgments of political and social policy. The standards for incorporation set out in AS 07.10.030 were intended to be flexibly applied to a wide range of regional conditions. This is evident from such terms as "large enough", "stable enough", "conform generally", "all area necessary and proper", "necessary or desirable", "adequate level" and the like.\* The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adapted to both urban and sparsely populated areas of Alaska, and the Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission's reading of the standards and its evaluation of the evidence.*

\* AS 07.10.030 contained the former statutory standards for borough incorporation. It has been replaced by AS 29.05.031. The standards set forth in AS 29.05.031 parallel those found under the prior statute and contain similarly flexible language.



**Petitioners for the Incorporation of the City and Borough of Yakutat vs. Local Boundary Commission.** On June 7, 1993, Superior Court Judge Michael Thompson affirmed the decision of the LBC regarding the incorporation of the Yakutat Borough. In doing so, the court concluded: 1) the procedures used by the LBC to act on the petition were proper; 2) there was a reasonable basis for the LBC's decision to amend the western boundary; 3) the LBC lacks legislative rulemaking authority for incorporation proceedings, however, it does have authority to adopt interpretive regulations governing incorporation and its incorporation regulations were viewed as such; 4) it may have been a violation of law to use regulations adopted after the petition was filed, however, that potential defect was overcome by de facto incorporation of the borough; and 5) there is a reasonable basis for the LBC's conclusion that the incorporation proposal (with amended boundaries) satisfied the borough incorporation standards.

Concerning the LBC's authority to adopt regulations, the court acknowledged that the LBC does have legislative rulemaking authority for matters involving annexation, detachment, merger and consolidation (the court did not mention dissolution, but the LBC also has express legislative rulemaking authority for such under AS 29.06.450). CSSB 164, which is pending before the Legislature, would give the LBC the authority to adopt legislative regulations concerning incorporation. Judge Thompson noted that interpretive regulations are given less deference by the court than legislative regulations.

The ruling has been appealed to the Supreme Court. At this point, briefs have been filed with the Supreme Court by the appellants and the State.

**Jack Keane and Concerned Citizens of Bristol Bay vs. Local Boundary Commission.** On December 13, 1991, an unincorporated association of Pilot Point area residents, property owners and fishermen filed an appeal of the LBC's decision to accept the petition to incorporate Pilot Point as a second class city. On September 3, 1992, the Superior Court affirmed the decision of the Local Boundary Commission. The matter was subsequently appealed to the State Supreme Court. Oral arguments were held before the high court on December 7, 1993.

**Robert Ed Bailey vs. City of Palmer and the Local Boundary Commission.** An appeal was filed January 29, 1993, over the Commission's approval of the annexation of 7.5 acres to the City of Palmer. Oral arguments were held on September 9, 1993, in the Superior Court in Palmer. On September 24, Superior Court Judge Beverly Cutler affirmed the LBC's action. In a 19-page decision, Judge Cutler concluded that "none of [the Appellant's] claims have merit." The decision was not appealed to the Supreme Court.

**Russell Babic, et al., The Eyak Corporation vs. DCRA and the Local Boundary Commission.** On February 5, 1993, Russell Babic, et al., appealed the Commission's approval of the annexation of 68.23 square miles to the City of Cordova. A separate appeal over the same issue was filed by the Eyak Corporation on March 4, 1993. The two appeals were consolidated on April 2, 1993.





Briefs have been filed by Russell Babic, et al., and the State. Because the Eyak Corporation failed to file an opening brief, the State advised the Court that its appeal should be dismissed under Appellate Rule 511.5. The matter is currently under review by the Court.

**City of Ekwok vs. Local Boundary Commission.** On February 22, 1989, eleven cities, village councils and native corporations from the Nushagak River area appealed the LBC's December 28, 1988 decision to approve the incorporation of the Lake & Peninsula Borough. On November 18, 1992, Superior Court Judge Joan Katz ruled in favor of the appellants and ordered the LBC to reconsider its decision as it related to the northwest boundary of the Borough. The reconsideration was placed on hold pending appeal to the Supreme Court. Briefs have been filed with the Supreme Court by all parties.





## CHAPTER III RECOMMENDATIONS FOR ANNEXATION

This chapter presents three formal recommendations to the Second Session of the Eighteenth Alaska Legislature for annexation pursuant to Article X, § 12 of Alaska's Constitution. The first recommends the annexation of approximately 21 square miles to the City of King Cove. Recommendations 2 and 3 collectively propose the annexation of 44.6 acres to the City of Seldovia.

Under the law, these annexations receive automatic legislative approval 45 days after presentation to the legislature (or at the end of the session, whichever is earlier) unless disapproved by a concurrent resolution of the legislature. The boundary changes take effect upon legislative approval and demonstration that the municipalities involved have complied with the federal Voting Rights Act.

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

*Alaska Constitution, Article X, § 12.*



*Darroll Hargraves, Chairperson  
Shelley Dugan, Vice-Chairperson,  
4th Judicial District*



*Frances Hallgren, 1st Judicial District  
Myrtle Johnson, 2nd Judicial District  
H. Toni Salmeier, 3rd Judicial District*

## Local Boundary Commission

### RECOMMENDATION NUMBER ONE TO THE SECOND SESSION OF THE EIGHTEENTH ALASKA LEGISLATURE

A recommendation for the annexation of approximately 21 square miles to the City of King Cove.

#### INTRODUCTION AND DESCRIPTION OF THE AREA

On April 12, 1993, the City of King Cove petitioned the LBC to annex approximately 28.44 square miles. The area in question is inhabited by 8 residents. Just under one-fifth of the territory consisted of submerged lands (4.88 square miles). The remaining 23.56 square miles consisted of lands extending along the length of the eastern and northern boundaries of the city and continuing along portions of the City's western and southern boundaries. Existing facilities and prospective developments in the territory proposed for annexation include the following:

- Gould Subdivision;
- King Cove airport;
- Road leading to airport;
- Portion of City's sanitary landfill;
- Portion of Ram Creek Subdivision;
- Proposed Delta Creek hydroelectric project;
- Proposed Delta Creek water project; and
- Proposed Lenard Harbor port facility.

#### PROCEEDINGS

The major steps taken in the formal annexation proceedings are summarized below:

- 04/02/93 – King Cove City Council adopted Resolution 93-12 authorizing the petition.
- 04/12/93 – The City of King Cove lodged its petition with DCRA. DCRA's technical review of the petition disclosed minor errors in the petition.



- 05/03/93 – The City of King Cove filed corrections to its petition.
- 05/04/93 – DCRA accepted the petition for filing.
- 05/14/93 – Notice of the filing of the petition was published for the first time in *The Dutch Harbor Fisherman*, a newspaper of general circulation in King Cove.
- 05/17/93 – Notice of the petition was published in the *Alaska Administrative Journal*.
- 05/19/93 – Notice of the petition was mailed to 17 interested parties. A copy of the petition was provided to the Aleutians East Borough and the City of Cold Bay.
- 05/21/93 – The second notice of the petition was published in *The Dutch Harbor Fisherman*.
- 05/24/93 – The second notice of the petition was published in the *Alaska Administrative Journal*.
- 05/26/93 – Notice of the petition was posted in eight locations in the territory proposed for annexation and the adjacent area. The petition was made available for public review at the King Cove City Clerk's office.
- 05/28/93 – The third notice of the petition was published in *The Dutch Harbor Fisherman*.
- 05/31/93 – The third notice of the petition was published in the *Alaska Administrative Journal*.
- 07/06/93 – The deadline for the filing of responsive briefs and comments was reached. No briefs had been filed. The Aleutians East Borough wrote a letter in support of the proposal.
- 07/30/93 – DCRA published its draft report on the annexation proposal recommending the annexation of 21 square miles. The report was distributed to 28 parties.
- 08/10/93 – Notice of the Commission's October 1 hearing on the annexation was mailed to 42 parties. DCRA requested that the City post the hearing notice in 8 locations by September 9. DCRA also wrote to KSCP-AM and KDLG-AM requesting that they broadcast announcements of the hearing through September 30. DCRA requested publication of the hearing notice in the subsequent four issues of the *Alaska Administrative Journal*.
- 08/27/93 – The deadline for comments on DCRA's draft report was reached. Comments regarding the report and the annexation proposal were submitted by Harry Gould, Sr. (2 letters opposing annexation), homeowners in the Gould Subdivision (opposing annexation), the Bureau of Indian Affairs, the



Department of the Interior and the City of King Cove. Notice of the LBC's October 1 hearing on the annexation was first published in *The Dutch Harbor Fisherman*.

- 09/08/93 – DCRA issued its final report, maintaining the recommendation that the Commission approve the annexation of 21 of the 28.44 square miles petitioned for annexation.
- 09/10/93 – The second notice of the hearing was published in *The Dutch Harbor Fisherman*.
- 09/24/93 – The third notice of the hearing was published in *The Dutch Harbor Fisherman*.
- 10/01/93 – Commissioner Hargraves and Commissioner Hallgren traveled to King Cove. Upon arrival, they toured the territory proposed for annexation. At 7:00 p.m. the Commission convened its hearing on the annexation proposal. Commissioners Hargraves and Hallgren were present at the King Cove Community Building. Commissioners Dugan, Johnson and Salmeier joined the hearing by teleconference from the Kodiak Island Borough Assembly Chambers. Following the hearing, the Commission voted unanimously to amend the petition to reduce the area proposed for annexation from 28.44 square miles to 21 square miles. After the petition was amended, it was approved unanimously.
- 10/15/93 – Arrangements were made for publication and posting of notice of opportunity for reconsideration and the 11/09/93 meeting of the LBC.
- 11/09/93 – The LBC adopted a 10-page written statement outlining the major considerations leading to its decision in this matter. Copies were provided to the parties required by law. The decision of the LBC became final at this point. Parties had the opportunity to seek reconsideration of the decision.
- 11/24/93 – Deadline to request reconsideration of the LBC's decision. No requests were filed.

### CONCLUSIONS

Based upon the record, the LBC reached the conclusions outlined below regarding the annexation proposal. Further information on the LBC's conclusions regarding this matter is provided in the LBC's 10-page decisional statement on the annexation of territory to the City of King Cove. A copy of the decisional statement is available upon request.

1. Given the existing and potential development, there is a need to extend the City of King Cove's authority for planning, platting and zoning to the area in question. There is also a need for formalize the City's authority to provide police and fire protection to the area. The City of

King Cove can provide the needed services more efficiently than any other municipality. As such, the standard set out in 19 AAC 10.090 concerning the need for city government is satisfied.

2. While the area proposed for annexation is much less developed than the area within the existing boundaries of the City of King Cove, the character of the territory in question is compatible with the existing city. Thus, the standard set out in 19 AAC 10.100 is met.

3. The annexation will have little impact on locally generated revenues or intergovernmental revenues of the City. By the same token, it will cause little, if any, increase in the expenses of the City. The economy within the proposed boundaries of the City includes the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. Thus, the standard prescribed by 19 AAC 10.110 is met.

4. The City of King Cove is a first class city operating under a manager form of government. The City provides a broad range of services to its 871 residents. Its current operating budget totals more than \$2 million, 73% of which is funded through locally generated revenues. The annexation would add approximately 8 residents to the City's population. The post-annexation population of the City of King Cove would remain large and stable enough to support city government. Thus, the standard set out in 19 AAC 10.120 is met.

5. The boundaries requested by the City of King Cove in its petition of April 12, 1993, include more land and water than is necessary to provide the full development of essential city services on an efficient, cost-effective level. However, the boundary standard set out in 19 AAC 10.130 is satisfied by amending the petition to exclude 7.44 square miles of the area proposed for annexation.

6. The proposed annexation serves the balanced best interests of the City of King Cove, the Aleutians East Borough, the territory proposed for annexation and the State of Alaska. The balanced interests of the various parties involved in this matter warrant the use of the legislative review process to implement the annexation. Thus, the standard set out in 19 AAC 10.140 is satisfied.





## LEGAL DESCRIPTION AND MAP

The boundaries of the territory hereby recommended for annexation to the City of King Cove are described as follows:

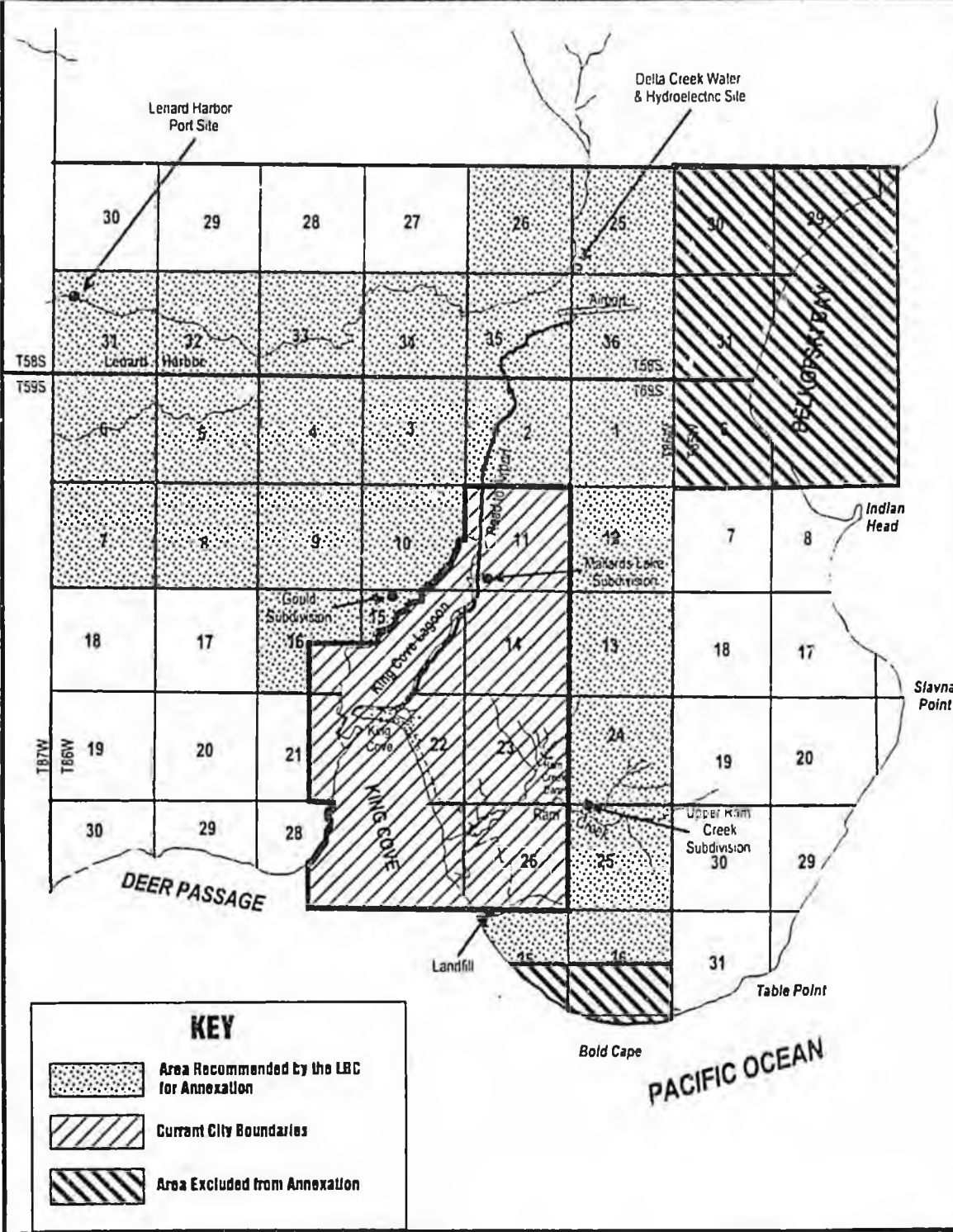
Beginning at the protracted NW corner of the SE 1/4 of Section 16, T59S, R86W, Seward Meridian; thence north to the protracted NE corner of the NW 1/4 of Section 16; thence west to the protracted NW corner of Section 16; thence north to the protracted NW corner of Section 9, T59S, R86W, Seward Meridian; thence west to the protracted SW corner of Section 6, T59S, R86W, Seward Meridian; thence north to the protracted NW corner of Section 31, T58S, R86W, Seward Meridian; thence east to the protracted SW corner of Section 26, T58S, R86W, Seward Meridian; thence north to the protracted NW corner of Section 26; thence east to the protracted NE corner of Section 25, T58S, R86W, Seward Meridian; thence south to the protracted SE corner of the NE 1/4 of Section 36, T59S, R86W, Seward Meridian; thence west to the mean high water line of Deer Passage; thence meandering northwesterly along the line of mean high water of Deer Passage to the point of intersection with the south boundary of Section 26, T59S, R86W, Seward Meridian; thence east to the protracted SE corner of Section 26, T59S, R86W, Seward Meridian; thence north to the protracted NE corner of Section 11, T59S, R86W, Seward Meridian; thence west to the protracted NW corner of Section 11; thence south to the line of mean high water of King Cove Lagoon; thence meandering southwesterly along the mean high water line of King Cove Lagoon to the point of intersection with the south boundary of the NW 1/4 of Section 15, T59S, R86W, Seward Meridian; thence west to the protracted NW corner of the SE 1/4 of Section 16, T59S, R86W, Seward Meridian, the point of beginning; containing 21 square miles, more or less, situated in the Third Judicial District, State of Alaska.

A map showing this area is shown on the next page.





# TERRITORY RECOMMENDED FOR ANNEXATION TO THE CITY OF KING COVE





*Darroll Hargraves, Chairperson  
Shelley Dugan, Vice-Chairperson  
4th Judicial District*



*Frances Hallgren, 1st Judicial District  
Myrtle Johnson, 2nd Judicial District  
H. Toni Sulmeier, 3rd Judicial District*

## **Local Boundary Commission**

### **RECOMMENDATION NUMBER TWO TO THE SECOND SESSION OF THE EIGHTEENTH ALASKA LEGISLATURE**

A recommendation for the annexation of approximately 42.8 acres to the City of Seldovia.

#### **INTRODUCTION AND DESCRIPTION OF THE AREA**

On March 16, 1993, the City of Seldovia petitioned the Local Boundary Commission to annex approximately 42.8 acres. The territory petitioned for annexation consisted of the two distinct groups of property noted below.

1. Remainder of airport. The City petitioned to annex that portion of the State airport not already within its boundaries. The City estimated that the area encompassed approximately 36.6 acres.

During the annexation proceedings, it was discovered that the City's petition had inadvertently excluded a 1985 extension of the north end of the airport runway. The runway extension encompassed approximately 1.8 acres.

2. Enciaves. The City also petitioned to annex what it identified as thirteen enclaves within its corporate boundaries. Collectively, the enclaves comprised approximately 6.2 acres. The thirteen enclaves included all or portions of 36 privately owned lots and segments of public rights-of-way along the waterfront. According to the City, the enclaves were inhabited by 3 persons.

#### **PROCEEDINGS**

The major steps in the formal annexation proceedings are summarized below.

03/10/93 - Seldovia City Council adopted Resolution 93-5 authorizing the petition.



- 03/16/93 - Seldovia City Manager completed preparation of the petition.
- 03/17/93 - Petition was lodged with the Department of Community & Regional Affairs (DCRA).
- 04/06/93 - DCRA completed its technical review of petition and accepted the petition for filing.
- 04/08/93 - Public notice of the filing of the petition was published in the *Homer News*, a newspaper of general circulation in Seldovia.
- 04/12/93 - Notice of the petition was published in the *Alaska Administrative Journal*.
- 04/14/93 - Notice of the petition was posted at the Seldovia Post Office, Seldovia Mart, Seldovia City Office and Seldovia Public Library.
- 04/15/93 - Notice of the filing was published for the second time in the *Homer News*. Notice was also posted at the Seldovia Airport, William C. Lethin property, Carl & Helen Hille property and the Deepak Kumar Stokes Cannery.
- 04/19/93 - Notice of the petition was published in the *Alaska Administrative Journal*.
- 04/20/93 - Notice of the filing was mailed to more than 30 parties, including all owners of real property in the areas proposed for annexation, the news media serving the area, officials of the Kenai Peninsula Borough and other government officials.
- 04/22/93 - Notice of the filing was published for the third time in the *Homer News*.
- 04/26/93 - Notice of the petition was published in the *Alaska Administrative Journal*.
- 04/28/93 - A copy of the petition was served on the Kenai Peninsula Borough, the City of Homer and the City of Kachemak.
- 04/29/93 - Copies of the petition were made available for public review at the Seldovia Library and the Seldovia City Office.
- 05/03/93 - Notice of the petition was published in the *Alaska Administrative Journal*.
- 06/04/93 - The deadline was reached for filing responsive briefs and written comments regarding the petition. No briefs were filed, however, written comments were submitted by four parties by this date.
- 06/07/93 - The City of Seldovia responded to the comments from the four parties.



- 06/21/93 - DCRA issued its draft report concerning the annexation proposal. Copies were distributed to more than 50 parties, including all owners of real property within the area proposed for annexation, news media serving the area and various state and local government officials.
- 07/15/93 - Notice of the August 26 public hearing was mailed to 65 parties. Arrangements were made for publication of the notice in the *Alaska Administrative Journal*.
- 07/22/93 - Notice of the hearing was published in the *Homer News*.
- 07/23/93 - The deadline was reached for filing comments on DCRA's draft report. Comments were submitted by four parties by this date.
- 07/26/93 - Notice of the hearing was posted at the Seldovia Airport, Lethin property, Hille property, Stokes property, Seldovia City Office, Seldovia Post Office, Seldovia Library and Seldovia Mart.
- 08/03/93 - DCRA issued its final report on the proposed annexation. Copies were provided to 66 parties.
- 08/05/93 - Notice of the hearing was published for the second time in the *Homer News*.
- 08/15/93 - DCRA requested that KBBI-AM, a radio station serving Seldovia, broadcast public service announcements of the hearing.
- 08/19/93 - Notice of the hearing was published for the third time in the *Homer News*.
- 08/26/93 - Commissioners Hargraves, Hallgren, Salmeier and Johnson traveled to Seldovia. All four Commission members toured the community, including the areas proposed for annexation, before the hearing.
- The Commission conducted a public hearing on the annexation proposal at the Seldovia Public Library. The hearing began at 7:30 p.m. and ended at approximately 11:00 p.m. Fourteen individuals provided testimony or comments to the Commission. Following the hearing, the Commission asked DCRA for information concerning the possible inclusion of the 1985 airport runway extension.
- 08/27/93 - Notice of the September 10 decisional session was mailed to 66 parties. Notice was also posted at the Seldovia Airport, Lethin property, Hille property, Stokes property, Seldovia City Office, Seldovia Post Office, Seldovia



Library and Seldovia Mart. Additionally, KBBI-AM was requested to broadcast public service announcements of the decisional session.

- 09/02/93 - Notice of the September 10 meeting was published in *Homer News*.
- 09/03/93 - DCRA provided information requested by the Commission at its August 26 hearing concerning the possible inclusion of the 1985 airport runway extension.
- 09/10/93 - Commissioners Hargraves, Salmeier, Hallgren and Johnson met by teleconference to act on the petition. The Seldovia City Office was included among the teleconference sites. During the meeting, the Commission amended and approved the petition. The amendment expanded the area to be annexed to include the 1.8 acre 1985 extension of the Seldovia airport runway. The decision of the Commission was unanimous among the four members who participated.
- 10/01/93 - The LBC adopted a 19-page written statement outlining the major considerations leading to its decision in this matter.
- 10/07/93 - Copies of the LBC's decisional statement were provided to the parties required by law. The decision of the LBC became final at this point. Parties had the opportunity to seek reconsideration of the decision.
- 10/27/93 - Deadline to request reconsideration of the LBC's decision. No requests were filed.

## CONCLUSIONS

Based upon the record, the LBC reached the conclusions outlined below concerning the Seldovia annexation proposal. More detailed information concerning the conclusions of the LBC is provided in the LBC's 19-page decisional document relating to this matter. A copy of the decisional statement is available upon request.

1. Two circumstances particular to this case indicate that the enclaves are probably already under the jurisdiction of the City of Seldovia. The first is that when tidelands and submerged lands (which marked the original city boundaries) were extended in the 1960's, the boundaries of the city were automatically extended (see McQuillin Mun Corp § 7.06, 3rd Ed). The second circumstance is that there has been acquiescence over a very long period of time to the exercise of jurisdiction by the City over the area in question (see McQuillin Mun Corp § 7.09, 3rd Ed). Further, there is a need for city services within the enclaves. City services are also needed at the Seldovia airport. The latter extends to all developed portions of the airport, including the 1.8 acre extension of





the runway inadvertently excluded from the City's petition. The City of Seldovia is most capable of efficiently and effectively providing essential city services to the areas proposed for annexation. The areas proposed for annexation contain extensive development and are in close proximity to the City of Seldovia. Thus, there is a reasonable need for city government in the 42.8 acres petitioned for annexation, plus the 1.8 acre runway extension. The standard set out in 19 AAC 10.090 is satisfied concerning this area.

2. The enclaves and the airport (including the 1.8 acre runway extension) are compatible in character with the territory presently within the City of Seldovia. Thus, the standard set out in 19 AAC 10.100 is satisfied.

3. The City has the capacity, using its existing staff and other resources, to serve the airport and the enclaves on an efficient, cost effective level without any significant increase in expense to the City. Thus, the standard set out in 19 AAC 10.110 is satisfied.

4. The population of the City is large and stable enough to support the extension of the City's boundaries to the area in question. Thus, the standard set out in 19 AAC 10.120 is met.

5. The annexation of the 44.6 acres in question will promote greater efficiency and cost-effectiveness in the delivery of services by the City. Thus, the standard set out in 19 AAC 10.130 is met.

6. The interests of the City of Seldovia, the Kenai Peninsula Borough, the territory proposed for annexation and the State of Alaska will be well served by annexation of the territory in question. The balanced interests of the various parties involved in this matter warrant the use of the legislative review process. Thus, the standard set out in 19 AAC 10.140 is satisfied.

#### **LEGAL DESCRIPTION AND MAP**

The territory hereby recommended for annexation to the City of Seldovia consists of the area described in the City of Seldovia's March 16, 1993 annexation petition. This area is further described as:

All properties which are enclaves within the perimeter corporate boundaries of the City of Seldovia (i.e. territory that is not under the jurisdiction of the City of Seldovia, but is surrounded by property within its jurisdiction. These include all or portions of the following properties:

- Tideland Lots: T-25, T-27, T-28, T-29, T-31, T-34 and T-35;
- Block T-4, Lots: T-4, T-5, T-6 and T-7;



- Block T-5, Lots: T-5, T-6, T-7, T-8 and T-9;
- Block 4, Waterfront Resubdivision #1, Lots: 2, 3, 4, 5, 6, 7, 8, and 9;
- Block 5, Waterfront Resubdivision #1, Lots 5, 6, 7, 8, and 9;
- Block 6, Waterfront Resubdivision #2, Lots 6, 7, 8 and 12;
- Block 13, Waterfront Resubdivision #1, Lots 2 and 4;
- Dock Street right-of-way between Lot 10, Block 5, Waterfront Resubdivision #1 and Lot 1, Block 6, Waterfront Resubdivision #1;
- Right-of-way between Lot 12, Block 6, Waterfront Resubdivision #2 and Lot 1, Block 10 Waterfront Resubdivision #2;
- Right-of-way between Lots 3 and 4, Block 10, Waterfront Resubdivision #2;
- Peninsula Street between Lot 12, Block 10, Waterfront Resubdivision and Lot 4, Block 13, Waterfront Resubdivision #1;
- Bay Street right-of-way adjacent to Lot T-25; and
- Right-of-way, part of and adjacent to Peninsula Street, adjacent to Lot T-33 and part of Lot 1, Block 31, Seldovia Townsite.

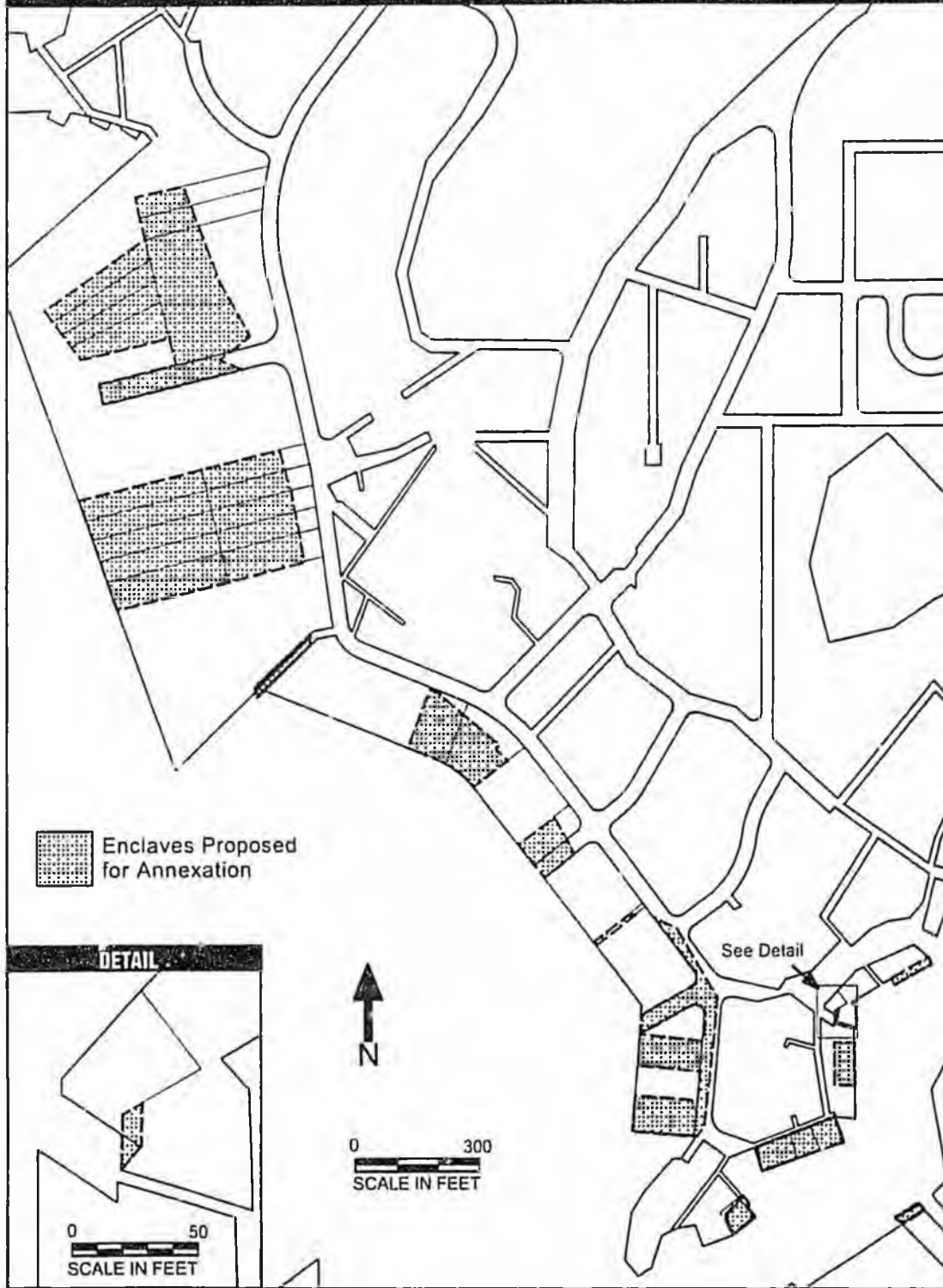
And, within Section 32, T8S, R14W, Seward Meridian, portions of the Seldovia Airport Property not within the current boundaries of the City of Seldovia. This includes Government Lot 1, except Lagoon Acres Subdivision, Plat No. 86-1, Seldovia Recording District; that portion of Government Lot 4 lying east of U.S. Survey 1770 and that portion of the E 1/2 NE 1/4 SW 1/4 lying northwesterly of Airport Road.

Maps showing these areas appear on the following pages.





# ENCLAVES RECOMMENDED FOR ANNEXATION TO THE CITY OF SELDOVIA





# AIRPORT PROPERTY RECOMMENDED FOR ANNEXATION TO THE CITY OF SELDOVIA

