

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8234 SENATE COMMUNITY & REGIONAL AFFAIRS

499

SB

282

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 282

Revision Date: _____
 Title: Eligible Match Money
Water/Sewer Grants
 Sponsor: Senate Community and Regional Affairs
 Requestor: Senator Zharoff

Department Affected: Environmental Conservation
 BRU: Facility, Construction, and Operation
 Component: Facility, Construction, and Operation

COMPONENT SERIAL NO. 637

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impacts expected. This bill does not generate additional work. The only program change is to all federal funds to be used in the existing program.

Prepared by: Bob Poe, Director
 Division: Information & Administrative Services

Phone: 465-5010
 Date: 2/15/94

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 2/15/94

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Alaska State Legislature

REPRESENTATIVE
JERRY MACKIE



House of Representatives

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February 9, 1994

MEMORANDUM

To: Rep. Olberg, Chair
Community & Regional Affairs Committee

From: Rep. Mackie *Jerry Mackie*

Re: Financing of municipal water and sewer projects.

SB 282 (attached) embodies an idea that I believe has a lot of merit. It allows a community to use federal funds to provide the local match in the state's matching grant programs for water and sewer projects.

I feel that the costs of basic water and sewer systems today have escalated beyond the financial ability of most small communities to address, even with the generous 50 % state matching grant program. The program by itself is no where near a sufficient inducement for small communities to correct serious water and sewer problems. As a result less is being done. And most often what is being done is with the assistance of substantial federal funds. By allowing the use of federal funds to qualify for the state matching program, I believe many small communities will have the ability to commit to resolving their water and sewer problems.

I therefore would appreciate your consideration for introducing a CRA committee bill similar to SB 282.

Priority 1: Sewage Treatment Plant Expansion

In order to meet basic sewage treatment for the community, and current E.P.A. standards, a new sewage treatment plant must be constructed.

The greatest problem with the existing treatment plant is its tendency to become hydraulically overloaded during peak use periods and at certain times of the year. The size of the population using the system indicates an abnormally high flow. Some of this high flow is the result of infiltration caused by residents leaving their water running during the cold periods to avoid frozen water lines. P.V. inspection and grouting work included elsewhere in this plan should solve the infiltration problem. A combination of community education and proper insulation of water service lines would reduce water waste.

The City and Borough of Yakutat contracted with engineers conduct an assessment of the existing facility, and determine the cost of a new, or expanded facility. The Tlingit and Haida Regional Housing Authority and Indian Health Service have procured funding for half of the facility, as was determined by the engineering study. The Borough is lacking the "matching" funds, or second half of the required money.

Total Project Cost: \$1,806,000
Remaining: \$ 898,000

Division of Facility Construction & Operations

Municipal Grants and Loans



**Alaska Department
of Environmental
Conservation**

410 Willoughby Avenue,
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465-5050

John A. Sanaar
Commissioner

Mead Treadwell
Deputy Commissioner

Bob Poe
Director, Information &
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Legislative Liaison

Keith Kellan
Director, Division of
Facility Construction and
Operations

Dick Marcum
Manager, Municipal
Grants and Loans
465-5180

Issues

The Municipal Grants and Loans group provides water, sewerage and solid waste facilities to urban residents, fulfilling statutory requirements of AS 46.03.030 and AS 03.032. According to the U.S. Environmental Protection Agency (EPA), the state will need to spend at least \$107 million on just sewage treatment plants in urban areas over the next 18 years. These costs will continue to grow, assuming the state's population grows. The estimates do not include the cost of water system expansions required by the surface water treatment rule or new treatment techniques that will be required in future years. As provided by Congress, EPA will "seed" the state revolving loan program with annual grants until 1994. In order to capture the federal grant, however, the state has contributed a 20% match. The fund has received a total of \$28,519,592 in federal capitalization. Additionally, the Legislature has appropriated \$10,236,000 to the program for required state match. An additional \$23,200,000 remains to be granted by the federal government. Unless Congress appropriates more money than was initially authorized, only \$94,400 of additional match requests to the Legislature are expected.

Major Features

50% matching grants:

- Conduct an annual needs assessment each fall of the facility improvements sought by communities. The division then compiles an annual capital budget needs request for review by the state Office of Management and Budget. The Governor then submits a funding request to lawmakers in January.
- Award grants and begin project construction after legislative appropriation.

Alaska Clean Water Fund:

- From the Federal Account—
 - Loan money only for wastewater projects.
 - Prioritize loans according to the severity of pollution problems, public health needs, available money, readiness to proceed, and each community's ability to repay.
 - Make loans for 20 years with interest rates of 75 percent of the current Municipal Bond Index rate, as of July 1, 1992. Loans can be awarded for 100% of eligible costs, including planning, design, and construction.
 - Ensure loans meet federal and state requirements. These will relax somewhat as the second generation of loans are made later in the 1990s.
- From the State Account—
 - Make loans for projects other than just wastewater improvements, including solid waste facilities.
 - Allow payments to municipalities to be made on a pre-negotiated schedule based on a community's forecasted cash flow needs, rather than on a reimbursement-only basis. State Account loans do not need to meet federal standards. To date, this account has not been capitalized by the Legislature. Loans may be fully capitalized

only by state general fund appropriations.

Program Background

In urban areas, the 50 percent Municipal Matching Grant Program provides up to 50% of the non-federally financed costs for water, sewerage and solid waste improvements. These grants are used to pay for engineering, construction, legal, administrative and equipment costs. Grants are available only to incorporated municipalities. The program has funded over 600 projects in 45 communities since 1970. This program also administers federal funds for construction of sewerage facilities. Administration of these funds is governed by the Clean Water Act and regulations promulgated by the U.S. Environmental Protection Agency (EPA). The state has been delegated authority from EPA to administer the federal funds. The program also administers the Alaska Clean Water Fund, through which communities may receive low-interest loans for planning, design, and construction costs associated with water, sewerage and solid waste management projects.

Program Benefits

By improving Alaska's wastewater treatment facilities and drinking water systems, the Municipal Grants and Loans program has reduced the incidence of water-borne disease in many parts of the state. It has helped ensure compliance with wastewater discharge standards, thus providing water of better quality for public use. Construction of solid waste facilities has helped improve litter containment and better overall disposal of trash. While Alaska's public facilities are some distance from the level found routinely in other states, the program has made significant improvements in urban areas during the past two decades. The revolving loan concept offers the promise of a dependable source of funding for sanitation projects in future years when communities' financing options narrow. As costs rise there is an increased danger that towns might have to forego construction projects, either endangering public health, or threatening the community with sizable federal fines for violations of federal water quality standards. The loan fund is a step toward preventing such problems.

1993 PROGRAM ACCOMPLISHMENTS *

MUNICIPAL GRANTS AND LOANS

Federal Wastewater Construction Grants Program

During the year, major projects were completed and federal closeouts took place on the following projects:

Anchorage - Eagle River Sewage Treatment Facility
 Anchorage - Campbell Creek Interceptor
 Cordova - Infiltration/Inflow
 Homer - Wastewater Treatment Facility
 Juneau - Mendenhall Sewage Treatment Facility
 Ketchikan - Sewage Treatment Facility
 Soldotna - Sewage Treatment Facility

Construction continued on the following projects:

Juneau - Juneau Douglas Sludge Facility
 Nome - Sewage Treatment Facility

State Construction Grants Program

A total of 52 grants were awarded during FY 93 for construction of water, wastewater and solid waste projects across the State for a total of \$15,888,787 as follows:

Community	No. of Project	Total Grant Amount
Anchorage	33	\$ 4,434,515
Bristol Bay Borough	2	3,357,200
Fairbanks	3	309,000
Haines	1	351,300
Juneau	2	1,063,000
Kake	1	501,000
Kenai	1	850,000
Ketchikan	1	130,000
Klawock	1	1,600,000
Kodiak	1	50,000
Nome	2	1,511,881
Seward	1	924,000
Skagway	1	100,000
Thorne Bay	1	206,891
Wasilla	1	500,000
TOTAL	52	\$15,888,787

§ 46.03.030

WATER, AIR, ENERGY, ETC.

§ 46.03.030

✱

Sec. 46.03.030. Water quality enhancement, water supply, sewage, and solid waste facilities grants. (a) *(Repealed, § 19 ch 220 SLA 1976.)*

(b) The department may grant to a municipality, as funds are available, up to 50 percent of eligible costs not financed by the federal government, for public water supply, treatment and distribution systems and public sewage collection, treatment and discharge facilities for which construction has not commenced on or before June 21, 1976. The eligible cost of a project or portions of a project are determined by the federal agency granting the most monetary assistance. On projects or portions of projects for which federal participation is not available, eligible costs shall be determined by the department in accordance with (d) of this section. Projects shall be constructed in accordance with plans and specifications approved by the department.

(c) There is a water quality enhancement program and water supply, sewage, and solid waste facilities fund created in the department to carry out the purposes of this section.

(d) The department shall, by regulation, identify those costs that are eligible costs for the purposes of this section. Eligible costs include the costs established in a construction contract that are necessary for construction of a project, but do not include the cost of interest and financing and right-of-way acquisition, or costs related to operation, maintenance, or repair of a project.

(e) The department may grant to a municipality not more than 50 percent of the eligible costs that are not paid for by the federal government for solid waste processing or disposal facilities constructed after July 1, 1980. However, the department may grant a municipality up to 60 percent of the eligible costs not paid for by the federal government for a solid waste processing or disposal facility constructed after July 1, 1980, if the facility is used for resource recovery. The eligible costs of a solid waste processing or disposal facility are determined by the federal agency granting the most monetary assistance for construction of the facility. For a solid waste processing or disposal facility for which federal money is not available, the department shall determine the eligible costs under (d) of this section. A municipality shall construct solid waste processing or disposal facilities financed by grants under this section according to plans and specifications approved by the department.

(f) The department may make a grant to a municipality for the eligible costs of programs and facilities for enhancing or protecting the water quality of streams, lakes, waterways, and other bodies of water if the costs are incurred after July 1, 1986. The grant may not exceed 50 percent of the eligible costs unless the department finds that the program or facility is needed to avert an immediate hazard to health, in which case the grant may be up to 100 percent of the eligible costs. Eligible costs are those not financed by the federal government and include costs of testing, research, education, enforcement, and clean-up programs for the purpose of discovering and solving existing or potential water pollution problems. A grant may be made under this subsection only for a water enhancement program approved by the department. (§ 3 ch 120 SLA 1971; am §§ 2, 19 ch 220 SLA 1976; am §§ 30, 31 ch 168 SLA 1978; am §§ 1-4 ch 163 SLA 1980; am §§ 1, 2 ch 90 SLA 1986; am §§ 1 — 3 ch 40 SLA 1987)

Effect of amendments. — The 1987 amendment substituted "program and water supply, sewage" for "water supply, sewerage"; in subsection (d) substituted "or repair" for "repair or replacement" in

the last sentence; and in the first sentence of subsection (e) substituted "that" for "including costs of obtaining federal waivers from the requirement for secondary treatment plants, which."

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DIVISION OF FACILITY CONSTRUCTION AND OPERATION

Keith Kelton, Director

410 Willoughby Avenue
Juneau, AK 99801-1795

Phone: 465-5180 / Fax: 465-5177

FACSIMILE TRANSMITTAL

SENDING TO:

Name:

SHIRLEY ARMSTRONG

Facsimile Number: 4979

SENT BY:

KEITH KELTON

NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 13

MESSAGE: Shirley - The following material includes

a: (1) Program overview; (2) statute 46.03.030
(3) FY 1993 Grant Program Accomplishments; and (4)

a draft of the information given Sen Hatford -
proposed bill and cost/benefit analysis. I have

marked the areas that relate to the grants program
and/or the effects of SB 282. Please call if you
have questions.

FCO/CLERICAL/MAK

Keith Kelton

SECTIONAL ANALYSIS
_____ BILL NO.

FOR AN ACT ENTITLED

"An Act relating to water quality enhancement, water supply, wastewater, and solid waste system grants: to the Alaska clean water fund and the Alaska clean water account: and to the establishment of the Alaska drinking water fund and the Alaska drinking water account: and providing for an effective date."

BACKGROUND

This legislation proposes modifications to two statutes administered by the Division of Facility Construction and Operation, within the Department of Environmental Conservation:

AS 46.03.030	Municipal Matching Grants	*
AS 46.03.032	Alaska Clean Water Fund	

These two programs provide funding assistance through grants and loans to Alaska's incorporated municipalities for the construction of water, wastewater and solid waste improvements. The primary purpose for amending AS 46.03.030 is to increase the flexibility of funding alternatives available to incorporated governments. The bill also more closely aligns funding assistance with the participation available from the Governor's matching grants program. Changes to AS 46.03.032 will position the State to take advantage of a new federal loan program for construction of water supply systems. This legislation is now pending in Congress and adoption of changes to the statute, this session, will allow the State to participate at the earliest possible opportunity. *

MUNICIPAL MATCHING GRANTS *

Bill Sections 1 through 5

Sections 1.2 & 3 - These sections are rewritten to consolidate language and to clarify intent. This statute has been modified over the years adding new sections on grant eligibility. As a result, the statute has become redundant and confusing. These proposed amendments clarify but do not alter previous intent. The grant eligible expenses are fixed by regulation and will remain the same.

Section 4 - This section is revised to increase the grant percentages available to smaller incorporated municipalities and to more closely align this program with the funding assistance available under AS 37.08. In the past, smaller municipalities have had a difficult time providing the 50 percent local match required to qualify for a state matching grant. This has frequently resulted in sanitation needs going unmet. Unincorporated communities are eligible for 100 percent grants from the Village Safe Water Program. The changes in grant percentages will discourage smaller communities from dissolving their governments to qualify for increased State assistance. For municipalities over 5,000 in population, there is no change in the grant participation currently available.

Section 5 - This amendment alters how Federal funds are to be treated. The original statute adopted in 1972 was written to maximize the use of Environmental Protection Agencies grants. These federal grants were for 75 percent of eligible costs. The statute was written to require the State and the grantee to equally fund the remaining project costs. (The Department may grant....up to 50 percent of eligible costs not financed by the federal government...)

The EPA grants program that generated the existing statute's language has since been discontinued. The requirement that State project funds be reduced for each dollar of federal funding obtained acts as a disincentive for local governments to seek federal grants. By allowing federal funds to be used as match for State grants this amendment will encourage grantees to apply for federal funding. Allowing grantees to reduce local participation will increase the likelihood that projects in smaller communities can be financed.

ALASKA CLEAN WATER FUND

Bill Sections 6 through 13

BACKGROUND

The Alaska Legislature created the Alaska Clean Water Fund (ACWF) in 1987 to provide low interest loans for the construction of municipal wastewater projects. This program, capitalized 83 percent by the federal government, was designed to replace the EPA construction grants program. Since the ACWF can only finance wastewater projects, the Alaska Legislature also created a separate account for excess State appropriations to provide loans for water supply and solid waste projects. This account has never been capitalized. The ACWF as presently capitalized can provide loans only for wastewater projects.

Congress is presently considering several bills for the re-authorization of the Safe Water Drinking Act. These bills all contemplate a loan program for the construction of water supply projects. It is proposed that federal appropriations and the corresponding State match will be used to capitalize an Alaska Drinking Water Fund.

The proposed changes to AS 46.03.032 clarify the relationship of the Alaska Clean Water Fund to the Account and establishes a parallel Alaska Drinking Water Fund and Account. Early action by the Legislature to create a Drinking Water Fund will position the State to receive federal funding as soon as it is available.

Section 6 - This amendment cleans up existing language by removing references to water supply systems, which are now included in Section 12. This section also includes non-point source pollution control and estuary conservation as eligible activities under the ACWF loan program. These changes are made to comply with federal requirements and should have minimal impact on fund use in Alaska.

SECTION 7 - This amendment clarifies the name of the fund to be used in paying the costs of the program administration.

SECTIONS 8, 9 & 10 - These amendments clarify fund nomenclature and remove a provision in Section 10 that is not consistent with the federal law.

SECTION 11 - This section establishes an Alaska Clean Water Account to receive State appropriations in excess of the amount required to match the federal capitalization grants. There is no funding currently in this account.

SECTION 12 - This section establishes the Alaska Drinking Water Fund and positions the State to accept federal capitalization grants. Since federal legislation has not yet been adopted, language is broad, authorizing the Department to write the regulations needed to administer the program. This program is intended to parallel the ACWF loan program currently in place for wastewater projects.

SECTION 13 - This section establishes the Alaska Drinking Water Account to receive State appropriations in excess of the amount required to match federal capitalization grants. This is a parallel account to the Alaska Clean Water Account.

SECTIONS 14, 15, 16 & 17 - These sections relate to procedural matters and do not impact the intent of the proposed legislation.

PRESS COPY

SENATE BILL NO. 330

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR HALFORD

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to water quality enhancement, water supply, wastewater, and
2 solid waste grants; the Alaska clean water fund; the establishment of the Alaska
3 clean water account, the Alaska drinking water fund, and the Alaska drinking
4 water account; and providing for an effective date."

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

6 * Section 1. AS 46.03.030(b) is repealed and reenacted to read:

7 (b) The department may grant to a municipality, as funds are available, a grant
8 for any of the following:

- 9 (1) a water quality enhancement project;
- 10 (2) a public water supply, treatment, or distribution system;
- 11 (3) a wastewater collection, treatment, or discharge system;
- 12 (4) a solid waste processing, disposal, or resource recovery system.

13 * Sec. 2. AS 46.03 030(c) is amended to read:

14 (c) There is a water quality enhancement program and water supply,

1 wastewater [SEWAGE], and solid waste systems [FACILITIES] fund created in the
2 department to carry out the purposes of this section.

3 * Sec. 3. AS 46.03.030(d) is amended to read:

4 (d) The department shall, by regulation, identify those costs that are eligible
5 costs for the purposes of this section. Eligible costs [INCLUDE THE COSTS
6 ESTABLISHED IN A CONSTRUCTION CONTRACT THAT ARE NECESSARY
7 FOR CONSTRUCTION OF A PROJECT, BUT] do not include [THE COST OF]
8 interest and financing and right-of-way acquisition, or costs that are related to the
9 operation, maintenance, or repair of a system [PROJECT].

10 * Sec. 4. AS 46.03.030(e) is repealed and reenacted to read:

11 (e) A grant under this section to a municipality for a project funded by an
12 appropriation made by the legislature

13 (1) before July 1, 1994, may not exceed 50 percent of the eligible costs
14 of the project;

15 (2) after July 1, 1994, may not exceed

16 (A) 85 percent of the eligible costs for a municipality with a
17 population of 1,000 persons or less;

18 (B) 70 percent of the eligible costs for a municipality with a
19 population of 1,001 to 5,000 persons; and

20 (C) 50 percent of the eligible costs for a municipality with a
21 population greater than 5,000 persons; however, if a municipality with a
22 population greater than 5,000 persons seeks a grant for a project that relates to
23 a solid waste processing or disposal system that incorporates resource recovery,
24 the department may provide a grant for up to 60 percent of the eligible costs
25 of the project.

26 * Sec. 5. AS 46.03.030 is amended by adding new subsections to read:

27 (g) The match required for grants made under this section may include

28 (1) federal funds; or

29 (2) state funds, other than those funds received under this section or

30 AS 37.06.

31 (h) Construction of a project for which a grant is made under this section may

1 commence only after the department has approved in writing the plans and
2 specifications for the project.

3 * Sec. 6. AS 46.03.032(d) is amended to read:

4 (d) Except as otherwise limited by federal law, the Alaska clean water fund
5 may be used for

6 (1) buying or refinancing the debt obligations of a municipality for
7 a public wastewater treatment system or a [WORKS AND] solid waste management
8 system [DEBT OBLIGATIONS OF MUNICIPALITIES];

9 (2) planning, designing, building, constructing, and rehabilitating a
10 [FACILITIES ASSOCIATED WITH] solid waste management system or a [AND]
11 public wastewater [SEWAGE] collection, treatment, and discharge system
12 [FACILITIES];

13 (3) [CONSTRUCTING, EQUIPPING, MODIFYING, IMPROVING,
14 AND EXPANDING SOLID WASTE MANAGEMENT AND PUBLIC WATER
15 SUPPLY, TREATMENT, AND DISTRIBUTION SYSTEMS;

16 (4) guaranteeing or purchasing insurance for a public agency debt
17 obligation [OBLIGATIONS] related to the construction of a solid waste management
18 system or a public wastewater [AND] treatment system;

19 (4) developing and implementing a management program for
20 controlling water pollution from nonpoint sources under 33 U.S.C. 1329; and

21 (5) developing and implementing an estuary conservation and
22 management program under 33 U.S.C. 1330 [WORKS CONSTRUCTION].

23 * Sec. 7. AS 46.03.032(f) is amended to read:

24 (f) The department may spend money from the Alaska clean water fund to
25 pay the costs of administering the fund.

26 * Sec. 8. AS 46.03.032(g) is amended to read:

27 (g) A municipality wishing to borrow money from the Alaska clean water
28 fund shall demonstrate to the satisfaction of the department that the municipality [.]

29 (1) has sufficient legal authority to incur the debt for which it is
30 applying; and

31 (2) [THAT IT] will establish and maintain a dedicated source of

1 revenue or other acceptable revenue source for repayment of the loan.

2 * Sec. 9. AS 46.03.032(l) is amended to read:

3 (l) Loan [EXCEPT AS PROVIDED IN (n) OF THIS SECTION, LOAN]
4 repayments and interest earned by loans from the Alaska clean water fund shall be
5 deposited in the Alaska clean water fund.

6 * Sec. 10. AS 46.03.032(m) is amended to read:

7 (m) Annual principal payments shall commence within one year after project
8 completion [, OR WITHIN TWO YEARS AFTER THE DATE THE LOAN IS
9 MADE, WHICHEVER IS EARLIER].

10 * Sec. 11. AS 46.03 is amended by adding a new section to read:

11 Sec. 46.03.034. ALASKA CLEAN WATER ACCOUNT. (a) The Alaska
12 clean water account is established as a separate account which is distinct from other
13 money or funds in the treasury.

14 (b) The Alaska clean water account consists of state appropriations to the
15 Alaska clean water fund in excess of that amount required as a match for a federal
16 capitalization grant under 33 U.S.C. 1381 - 1387 (Clean Water Act).

17 (c) The department shall administer the Alaska clean water account.

18 (d) The Alaska clean water account may be used for purposes described in
19 AS 46.03.032(d).

20 (e) Principal repayments received on loans from the Alaska clean water
21 account shall be deposited in the Alaska clean water fund. Interest payments and
22 earnings shall be deposited in the clean water account.

23 * Sec. 12. AS 46.03 is amended by adding a new section to read:

24 Sec. 46.03.036. ALASKA DRINKING WATER FUND. (a) The Alaska
25 drinking water fund is established as a separate fund which is distinct from other
26 money or funds in the treasury. The Alaska drinking water fund consists of (1) federal
27 capitalization grants; (2) money appropriated by the legislature to meet federal
28 matching requirements; (3) loan repayments; and (4) if required by federal law or by
29 appropriation, interest received from loan repayments and interest received from
30 investment of money in the Alaska drinking water fund.

31 (b) The department may adopt regulations necessary to ensure that the

1 department administers and uses the Alaska drinking water fund in a manner consistent
2 with federal law.

3 * **Sec. 13.** AS 46.03 is amended by adding a new section to read.

4 Sec. 46.03.038. ALASKA DRINKING WATER ACCOUNT. (a) The Alaska
5 drinking water account is established as a separate account which is distinct from other
6 money or funds in the state treasury.

7 (b) The Alaska drinking water account consists of state appropriations to the
8 Alaska drinking water fund in excess of that amount required as a match for a federal
9 capitalization grant.

10 (c) The department shall administer the Alaska drinking water account.

11 (d) The Alaska drinking water account may be used for any purpose for which
12 the Alaska drinking water fund may be used.

13 (e) Principal repayments received on loans from the Alaska drinking water
14 account shall be deposited in the Alaska drinking water fund. Interest payments or
15 loans from the Alaska drinking water account and earnings on the Alaska drinking
16 water account shall be deposited in the Alaska drinking water account.

17 * **Sec. 14.** AS 46.03.030(f) and 46.03.032(n) are repealed.

18 * **Sec. 15.** Unless repealed by the department, regulations adopted by the Department of
19 Environmental Conservation before July 1, 1994, relating to water quality enhancement, water
20 supply, wastewater, and solid waste system grants, the Alaska clean water fund, or the Alaska
21 clean water account remain in effect until the effective date of regulations adopted by the
22 department to implement changes made by this Act.

23 * **Sec. 16.** Sections 1 - 11 and 14 - 15 of this Act take effect July 1, 1994.

24 * **Sec. 17.** Sections 12 and 13 of this Act take effect on the effective date of a federal law
25 authorizing changes to the federal Safe Water Drinking Act to allow the state to participate
26 in federal capitalization grants to finance projects related to drinking water. The commissioner
27 of environmental conservation shall certify to the revisor of statutes the effective date of a
28 federal law described in this section.

SB

291

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/9/94

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 2/17/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-16-94

CRA Committee considered SB 291

"An Act relating to including all regions in the state in an organized borough or unified municipality; and providing for an effective date."

and recommends:

replace with _____ CS SB291 (CRA)
 attaches amendment(s)

same title
 new title
 technical title change
 (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Office of Governor	2/15/94	0	F495
DORA	3/9/94	#485	F495

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Adrian L. Taylor Do not pass
Karen A. Lewman No rec

Reed E. Pappas Do Pass

Chair: Signature and Recommendation

FISCAL NOTE

Revision Date: March 9, 1994 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to including all regions of the BRU: Local Government Assistance
state in an organized borough or unified Component: Local Boundary Commission
 Sponsor: municipality
 Requestor: Senate C & RA Committee 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	27.4	13.7	14.0	28.0		
CONTRACTUAL	21.1	12.3	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS			0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	48.5	26.0	14.0	28.0	0.0	0.0

CAPITAL	0.0	0.0	2,100.0	3,500.0	2,100.0	700.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	48.5	26.0	2,114.0	3,526.0	2,100.0	700.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	48.5	26.0	2,114.0	3,526.0	2,100.0	700.0

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)

(See attached analysis)

Prepared by: Remond Henderson, Director Phone: 465-4708
 Division: Division of Administrative Services Date: 3/9/94
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 3/9/94
 Agency: Community & Regional Affairs

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FISCAL NOTE: Analysis

STATE OF ALASKA
1994 LEGISLATIVE SESSION

SENATE BILL 291

The following outlines the assumptions and other considerations used to project the fiscal impact of Senate Bill 291 on the Department of Community and Regional Affairs.

COMMITTEE ON MUNICIPALITIES

Travel

1. The fiscal note includes transportation and per diem costs only for the five members of the Committee on Municipalities appointed under Sec. 2(a)(3) - (7). It is assumed that transportation and per diem costs for the remaining four members of the Committee (Senate member, House member, LBC Chair and DCRA Commissioner) will be paid with funds otherwise allocated to those bodies and agencies.
2. It is assumed that the Committee will meet three times in Anchorage; twice during FY 95 and once during FY 96. Travel and per diem costs are estimated at \$500 per member for each meeting.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
5.0	2.5	0.0	0.0	0.0	0.0

Contractual

1. Public notice of the meetings of the Committee on Municipalities will be published one time for each meeting (2 notices in FY 95 and 1 in FY 96). Cost is estimated at \$200 per notice.
2. 400 copies of the Committee's report will be published and distributed in FY 96. Printing costs are estimated to be \$3.60 per copy, and postage costs are estimated to be \$1.00 per copy.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.4	2.0	0.0	0.0	0.0	0.0

BOUNDARY STUDY

Travel

The Local Boundary Commission will hold 24 hearings (based on the 1992 model boundary determinations showing five regions to have met boundary standards for annexation to existing boroughs and unified municipalities; and nineteen regions to have independently met borough boundary standards). The hearings will be held during the course of six extended trips (four hearings per trip). Sixteen of the hearings will be held in FY 95 and eight will be held in FY 96. Transportation and per diem costs for the Commission are estimated to be \$5,600 for each of the six extended trips.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
22.4	11.2	0.0	0.0	0.0	0.0

Contractual

1. Public notice of the hearings will be published three times for each hearing (48 publications in FY 95 and 24 in FY 96). Costs are estimated to be \$100 per publication.
2. 3,600 publications outlining the project, discussing the 1990-1992 model boundary determinations, inviting comment, etc., will be published. Of these, 2,400 publications will be printed and mailed in FY 95 and 1,200 in FY 96. Printing costs are estimated to be \$3.60 per copy, and postage costs are estimated to be \$1.00 per copy.
3. Each of the Commission's hearings will be teleconferenced to nine communities. Thus, 144 communities will participate by teleconference in FY 95 and 72 will participate by teleconference in FY 96. It is assumed that each teleconference segment will last two hours. Each teleconference is projected to cost \$33.61.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
20.7	10.3	0.0	0.0	0.0	0.0

CHARTER COMMISSIONS**Travel**

Fourteen regions will be determined to have met borough incorporation standards. Of these, seven will incorporate boroughs under Sec 4(c). Thus, seven charter commissions will be established under Sec 6. Each seven member charter commission will meet three times; once in FY 97 and twice in FY 98. It is assumed that transportation and per diem costs will be paid for 4 of the seven members (the remaining three being residents of the community in which the meeting is held). It is further assumed that each meeting will last three days. Transportation and per diem costs are estimated to be \$500 per each of the four charter commission members that travel.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.0	0.0	14.0	28.0	0.0	0.0

ORGANIZATIONAL GRANTS**Grants**

Of the fourteen regions determined to have met borough incorporation standards, seven will be incorporated in March of 1997 (FY 97) under Sec. 4(d). The remaining seven will be incorporated in October of 1997 (FY 98) under Sec. 8. Each newly formed borough will receive a \$600,000 organizational grant. \$300,000 of the grant is paid during the first year of incorporation, \$200,000 the following year and \$100,000 the third year.

FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
0.0	0.0	2,100.0	3,500.0	2,100.0	700.0

MUNICIPAL ASSISTANCE, REVENUE SHARING, NATIONAL FOREST RECEIPTS PROGRAM

No increase in funding is required. However, the level of funding to pre-existing municipalities will be diminished, at least with respect to the Municipal Assistance and Revenue Sharing programs.

DCRA STAFF COSTS

The Department of Community and Regional Affairs will use existing staff to carry out its duties with respect to the bill. Thus, no increase in personal services is provided in the fiscal note.

OTHER AGENCIES TO BE IMPACTED

DCRA notes that this bill could have fiscal impacts (positive and/or negative) on several other agencies. These agencies include the Department of Natural Resources, the Division of Elections, the Department of Education and the Department of Revenue.

TOTAL

Following is total estimated fiscal impact of Senate Bill 291 on the Department of Community and Regional Affairs.

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Svs	0.0	0.0	0.0	0.0	0.0	0.0
Travel	27.4	13.7	14.0	28.0	0.0	0.0
Contractual	21.1	12.3	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Grants	0.0	0.0	2,100.0	3,500.0	2,100.0	700.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
Total	48.5	26.0	2,114.0	3,528.0	2,100.0	700.0

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 223

Revision Date: _____ Dept. Affected: Revenue
 Title: Tax Credit: Gifts to Public Broadcasting BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Senator Taylor
 Requestor: (S) CRA COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE: General	(**)	(**)	(**)	(**)	(**)	(**)

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

 (**) See Attached

Prepared by: Larry E. Meyers *[Signature]* Phone: 465-2320
 Division: Income and Excise Audit Date: March 1, 1994
 Approved by Commissioner: Darrel J. Rexwinkel *[Signature]* Date: March 1, 1994
 Agency: Department of Revenue

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SB 223

Tax Credit: Gifts to Public Broadcasting

March 1, 1994

Page 2 of 2

Bill Analysis

This bill authorizes taxpayers to claim a credit against taxes due for cash contributions to private nonprofit corporations that are licensed as a public broadcasting station in the state. The credit, not to exceed \$150,000, may be claimed against the following tax types:

- Corporation Net Income (AS 43.20)
- Oil and Gas Production (AS 43.55)
- Oil and Gas Property (AS 43.56)
- Mining License (AS 43.65)
- Fisheries Business (AS 43.75)

During the taxpayer's tax year, credits claimed cannot be combined to exceed \$150,000.

This bill takes effect January 1, 1995.

Revenue

Total amount of credits will vary each year depending on contributions made by taxpayers. Although it is not likely that all taxpayers will make contributions to reach the maximum \$150,000 credit allowed under this bill and have tax liabilities to the extent of the credit, following is the maximum impact on revenue assuming that the top 10% of taxpayers claim the maximum credit allowed (except that all oil and gas taxpayers would claim credits).

<i>Tax Type</i>	<i># Taxpayers</i>	<i>Total Credits (# Taxpayers x \$150,000)</i>
Corporation Net Income	685	\$102,750,000
Oil and Gas Production and Property	30	4,500,000
Mining License	50	7,500,000
Fisheries Business	50	7,500,000
Total	815	\$122,250,000

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 291

1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: "An act relating to including all

BRU: Division of Elections

regions in the state in an organized borough or unified municipality; and providing for an effective date."

Component: Elections Operations

Sponsor: Senator Donley

COMPONENT SERIAL NO. 21

Requestor: _____

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	180.0	90.0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	0	180.0	90.0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	180.0	90.0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	180.0	90.0	0	0

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director

Phone: 465-4611

Division: Division of Elections

Date: 2/15/94

Approved by Commissioner: John B. Coghill, Lieutenant Governor

Agency: Office of the Governor

Date: 2/15/94

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page 2 of 2

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 291

ANALYSIS:

In March of 1993, the Division of Elections held elections for the REAA/CRSA unincorporated areas throughout Alaska. The total cost of the election was \$90,000.00. If the areas described in the bill are assumed to be the same each election will cost \$90.0. Each additional election will cost \$90.0.

now adopted

A M E N D M E N T NO. 1

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 1, lines 4 - 8:

Delete all material and insert the following:

*Section 1. LEGISLATIVE PURPOSE. It is the purpose of the Act to eliminate the unorganized borough by including all regions in the state in an organized borough or unified municipality in accordance with Article X, Section 3 of the Constitution of the State of Alaska.

*From
House
adopted*

A M E N D M E N T NO. 2

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 2, line 8 after, "Act (43 U.S.C. 1601 - 1628)":

Insert "from each of the four Judicial Districts;"

*Moved
by
adopted*

A M E N D M E N T NO. 4

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 2, line 30, after "least":

Delete "one public hearing"

Insert "two public hearings at different locations"

A M E N D M E N T NO. 5

not moved

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 3, line 16, after "may":

Insert:

"upon receipt of a petition signed by 15 percent of the number of voters who voted in the last general election in the region"

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Nineteenth"

*Do not
potentially
unconstitutional
opposes amendment*

not moved

A M E N D M E N T NO. 5

OFFERED IN SCRA

BY REQUEST

TO: SB 291

Page 3, line 16, after "may":

Insert:

"upon receipt of a petition signed by 15 percent of the number of voters who voted in the last general election in the region"

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Nineteenth"

Adm ent #6-

*Just the last portion
Delete 18th
Insert 20th*

A M E N D M E N T N O . 6

OFFERED IN SCRA

BY LEMAN

TO: SB 291

Page 3, line 17, after "the":

Delete "Eighteenth"

Insert "Twentieth"

To: Shirley Armstrong (fax: 465-4979)

From: Dan Bockhorst (telephone 269-4559 fax: 269-4539)

Date: March 4, 1994

Attached are three pages summarizing the constitutional, statutory and regulatory standards for borough incorporation.

There are no express constitutional or statutory standards for borough annexation, only regulatory standards. These are patterned largely after the boundary criteria for incorporation of boroughs. The regulatory criteria for annexation are found in 19 AAC 10.160 -19 AAC 10.210. Please advise me if you would like to provide you with a copy.

SUMMARY OF STANDARDS FOR BOROUGH INCORPORATION

The standards applied by the Department of Community and Regional Affairs and the Local Boundary Commission in reviewing a borough incorporation petition are set out in the Alaska Constitution, Alaska Statutes and the Local Boundary Commission's regulations in the Alaska Administrative Code.

CONSTITUTION

Article X is the Local Government Article. Its purpose is "to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions."

Each borough is to be established according to standards which shall "include population, geography, economy, transportation and other factors," and shall embrace an area and population with common interests to the maximum degree possible." (Article X, Section 3)

STATUTES

AS 29.05.031(a) provides four general standards applicable to all boroughs.

1. The population of the area is interrelated and integrated as to its social, cultural and economic activities, and is large and stable enough to support borough government;
2. The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services.
3. The economy of the area includes human and financial resources capable of providing municipal services. Evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough.
4. Land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

SUMMARY OF REGULATIONS

COMMUNITY OF INTERESTS (19 AAC 10.045): The social, cultural, and economic characteristics and activities of the people in the proposed borough must be interrelated and integrated. Considerations include:

- √ compatibility of urban and rural areas within the proposed borough;
- √ compatibility of economic lifestyles;
- √ existence of customary and simple transportation and communication patterns;
- √ the languages spoken throughout the proposed borough;

PRESUMPTIONS:

- at least two communities;
- all communities within the proposed borough are connected to the borough seat by road, regularly scheduled airline flights on at least a weekly basis, local air charter services or sufficient electronic media;

POPULATION (19 AAC 10.050): The population must be sufficiently large and stable to support the proposed borough government. Considerations include:

- √ total census enumeration
- √ duration of residency
- √ historical population changes
- √ age distributions.

PRESUMPTIONS:

- at least 1,000 permanent residents

RESOURCES (19 AAC 10.055): The economy of the proposed borough must contain the human and financial resources necessary to provide essential borough services on an efficient, cost effective level. Considerations include:

- √ reasonably anticipated borough functions
- √ reasonably anticipated borough expenses
- √ reasonably anticipated borough income
- √ anticipated operating budget through the third full fiscal year of operation
- √ economic base of proposed borough
- √ property valuations
- √ land use
- √ existing and anticipated industrial, commercial and resource development
- √ personal income of residents
- √ need for and availability of employable skilled and unskilled people
- √ predictable level of commitment and interest of population in maintaining a borough government.

BOUNDARIES (19 AAC 10.060): The proposed borough boundaries must conform generally to natural geography and include all land and water necessary to provide for full development of borough services on an efficient, cost-effective level. Considerations include:

- √ land use and ownership patterns
- √ ethnicity and cultures
- √ population density patterns
- √ existing and reasonably anticipated transportation patterns and facilities
- √ natural geographic features and environmental factors
- √ extraterritorial powers of boroughs.

PRESUMPTIONS: • boundaries will not extend beyond model boundaries.



TOK CHAMBER OF COMMERCE

"Main Street Alaska"

March 14, 1994

P.O. Box 389
Tok, Alaska 99780

Senator Randy Phillips
Chairman Community & Regional Affairs
REF: SB 291 Borough Incorporation & Annexation

Senator Phillips,

The following are some of our concerns regarding this bill:

1. Most importantly, we question the Constitutionality of the legislature being able to overturn a state election result if it does not approve state-wide borough formation. This would lead one to wonder what other Constitutional rights you may choose to ignore or over rule.
2. There is no tax base in our area, other than possible timber sales at this time. We have an approximate 90 days of tourist business, which barely covers year-round expenses for our small businesses and the employees. We have a 35-45% unemployment rate from October through April. The local businesses cannot afford any type of a tax, including the proposed state income tax.
3. What will borough formation do for this area? We currently pay 0.13¢ p/KW of electric, and if the cities have their way and do away with PCE we will be paying 0.21¢ a KW. We now pay \$1.45 per gallon of unleaded gas, \$1.15 per gallon of heating fuel. It cost close to \$3,000.00 to put down a well, and over \$1500.00 for a sewer system. Now you want to take away our only source of State-wide news by not funding RATNET. Our newspaper comes in a day late, so we get Fridays news on Saturday, and don't get Monday's news until Tuesday afternoon. Anchorage could have a major catastrophe and we here in the Upper Tanana wouldn't even know it for five days.
4. The legislature won't even fund this LIO next year, expecting Tok to come up with a donated space. If you can't find \$5-6,000.00 for that funding, how on earth are you going to come up with the hundreds of thousands of dollars full cost for state-wide borough formation?
5. While the "rest of the state" is paying taxes to support the rural area, they are also getting the lion's share of monies out of Juneau, as well as most of the monies the bush spends on such basic items as food, medical/dental care, insurance and building supplies and banking needs.

Post-It™ brand fax transmittal memo 7871		# of pages > /	
To	Sen. Phillips	From	Tok Chamber
Co.		Co.	
Dept.	4079	Phone	883-5887
Fax #	405-4209	Fax #	

TOK CHAMBER OF COMMERCE

(b) The boundaries of the proposed city must include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of incorporation of that city.

(c) The boundaries of the proposed city must not include entire geographical regions or large unpopulated areas, except when such boundaries are justified by the application of the standards in 19 AAC 10.010 — 19 AAC 10.010.

(d) If a petition for incorporation of a proposed city describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for incorporation must also address and comply with all standards and procedures for either annexation of the new city to the existing borough, or detachment of the overlapping region from the existing borough, unified municipality, or city. The commission will consider and treat such an incorporation petition as also being either an annexation petition to the existing borough, or a detachment petition from the existing borough, unified municipality, or city. (Eff. 7/3/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.05.011 AS 44.47.980
AS 44.47.567

Article 2. Standards for Incorporation of Boroughs

Section	Section
45. Community of interests	55. Resources
50. Population	60. Boundaries

19 AAC 10.045. COMMUNITY OF INTERESTS. (a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) the compatibility of urban and rural areas within the proposed borough;
- (2) the compatibility of economic lifestyles, and industrial or commercial activities;
- (3) the existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) the extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that an efficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for

the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) transportation schedules and costs;
- (2) geographical and climatic impediments;
- (3) telephonic and teleconferencing facilities; and
- (4) public electronic media.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are either connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, Alaska Const. AS 29.05.031 AS 44.47.567
AS 29.05.100

19 AAC 10.050. POPULATION. (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, Alaska Const. AS 29.05.031 AS 44.47.567
AS 29.06.100

19 AAC 10.055. RESOURCES. The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) the reasonably anticipated functions of the proposed borough;
- (2) the reasonably anticipated expenses of the proposed borough;
- (3) the reasonably anticipated income of the proposed borough, and its ability to collect revenue;

- (4) the feasibility and plausibility of the anticipated operating budget through the third full fiscal year of operation;
- (5) the economic base of the proposed borough;
- (6) property valuations;
- (7) land use;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents;
- (10) the need for and availability of employable skilled and unskilled people; and
- (11) the reasonably predictable level of commitment and interest of the population in sustaining a municipal corporation. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, AS 29.05.031 AS 44.47.567
 Alaska Const. AS 29.05.100

19 AAC 10.060. BOUNDARIES. (a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;
- (5) natural geographical features and environmental factors; and
- (6) extraterritorial powers of boroughs.

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond the model borough boundaries adopted by the commission.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of the Department of Education, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough or unified municipality, the petition for incorporation must also address and comply with all standards and procedures for detach-

ment of the overlapping region from the existing organized borough or unified municipality. The commission will consider and treat such an incorporation petition as also being a detachment petition. (Eff. 10/12/91, Register 120)

Authority: Art. X, Sec. 12, AS 29.05.031 AS 44.47.567
 Alaska Const. AS 29.05.100

Article 3. Standards for Annexation to Cities

Section	Section
90. Needs of the territory	130. Boundaries
100. Character	140. Legislative review
110. Resources	150. Local action
120. Population	

19 AAC 10.090. NEEDS OF THE TERRITORY. (a) The territory must exhibit a reasonable need for a city government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) existing or reasonably anticipated social or economic problems;
- (2) existing or reasonably anticipated health, safety, and general welfare problems;
- (3) existing or reasonably anticipated economic development;
- (4) adequacy of existing services; and
- (5) extraterritorial powers of adjacent municipalities.

(b) A territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
 sec. 12 AS 44.47.567

19 AAC 10.100. CHARACTER. The territory must be compatible in character with the annexing city. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) land use and subdivision platting;
- (2) suitability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
 sec. 12 AS 44.47.567

19 AAC 10.110. RESOURCES. The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city;
- (3) actual income and the reasonably anticipated ability to collect local revenue and income from the territory;
- (4) feasibility and plausibility of the anticipated operating budget of the city through the third full fiscal year of operation after annexation;
- (5) economic base of the territory after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled people. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.120. POPULATION. The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.130. BOUNDARIES. (a) The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;

(3) existing and reasonably anticipated transportation patterns and facilities;

(4) natural geographical features and environmental factors; and

(5) extraterritorial powers of cities.

(b) Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing city does not meet the minimal standards required for annexation.

(c) The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation of that city.

(d) The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards in 19 AAC 10.090 — 19 AAC 10.130.

(e) If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat the annexation petition to the existing organized borough, or a detachment petition from the existing organized borough, unified municipality, or city. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.140. LEGISLATIVE REVIEW. Territory that meets all of the annexation standards specified in 19 AAC 10.090 — 19 AAC 10.130 may be annexed to a city by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including whether the

- (1) territory is an enclave surrounded by the annexing city;
- (2) health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city

residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;

(4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city; and

(6) territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040
sec. 12 AS 44.47.567 AS 44.47.980

19 AAC 10.150. LOCAL ACTION. Territory contiguous to the annexing city, that meets the annexation standards specified in 19 AAC 10.090 — 19 AAC 10.130 and has been approved for local action annexation by the commission, may be annexed to a city by

(a) city ordinance if the territory is wholly owned by the annexing city;

(b) city ordinance and a petition signed by all of the voters and property owners of the territory; or

(c) a majority of voters residing in the territory. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040
sec. 12 AS 44.47.567 AS 44.47.980

Article 4. Standards for Annexation to Boroughs or Unified Municipalities

Section	Section
160. Community of interests	190. Boundaries
170. Population	200. Legislative review
180. Resources	210. Local action

19 AAC 10.160. COMMUNITY OF INTERESTS. (a) The social, cultural, and economic characteristics and activities of the people in the territory must be interrelated and integrated with the charac-

teristics and activities of the people in the existing borough or unified municipality. In this regard, the commission will, in its discretion, consider relevant factors, including the

(1) compatibility of urban and rural areas within the proposed borough or unified municipality boundaries;

(2) compatibility of economic lifestyles and industrial or commercial activities within the proposed borough or unified municipality boundaries;

(3) existence of customary and simple transportation and communication patterns throughout the proposed borough or unified municipality boundaries; and

(4) extent and accommodation of spoken language differences throughout the proposed borough or unified municipality boundaries.

(b) The communications media and the land, water, and air transportation facilities throughout the proposed borough or unified municipality boundaries must allow for the level of communications and exchange necessary to develop an integrated borough or unified municipality government. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities; and

(4) electronic media for use by the public. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040
sec. 12 AS 44.47.567 AS 44.47.980

19 AAC 10.170. POPULATION. The population of the proposed borough or unified municipality after annexation must be sufficiently large and stable to support the resulting borough or unified municipal government. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) total census enumerations;

(2) durations of residency;

(3) historical population patterns;

(4) seasonal population changes; and

(5) age distributions. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.040
sec. 12 AS 44.47.567 AS 44.47.980

19 AAC 10.180. RESOURCES. The economy within the proposed borough or unified municipality boundaries must include the human and financial resources necessary to provide essential borough or

municipal services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including the

- (1) reasonably anticipated functions of the borough or unified municipality;
- (2) reasonably anticipated new expenses of the borough or unified municipality;
- (3) actual income and the reasonably anticipated ability of the borough or unified municipality to generate and collect local revenue and income from the new territory;
- (4) feasibility and plausibility of the anticipated operating budget of the borough or unified municipality through the third year of operation after annexation;
- (5) economic base of the borough after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development in the borough or unified municipality;
- (9) personal income of residents in the territory to be annexed and in the borough or unified municipality; and
- (10) the need for and availability of employable skilled and unskilled people. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.06.010 AS 44.47.557

AS 44.47.980

19 AAC 10.190. BOUNDARIES. (a) The proposed boundaries of the borough or unified municipality must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough or municipal services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
 - (2) ethnicity and cultures;
 - (3) population density patterns;
 - (4) existing and reasonably anticipated transportation patterns and facilities;
 - (5) natural geographical features and environmental factors; and
 - (6) extraterritorial powers of boroughs.
- (b) Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing borough or unified municipality does not meet the minimal standards required for annexation
- (c) Absent a specific and persuasive showing to the contrary, the commission, in its discretion, will not approve a proposed borough or

unified municipality with boundaries extending beyond the model borough boundaries adopted by the commission and identified in the 1992 Interim Report on Model Borough Boundaries.

(d) The commission will consult with the Department of Education in the process of balancing all standards for annexation to a borough or unified municipality.

(e) If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, the petition for annexation must also address and comply with the standards and procedures for detachment of the overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat such an annexation petition as also being a detachment petition from the existing organized borough, unified municipality, or city. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, sec. 12 AS 29.06.010 AS 44.47.567 AS 44.47.980

Editor's notes. — Copies of the 1992 Dept. of Community and Regional Affairs Interim Report on Model Borough Boundaries may be obtained by writing the Local Boundary Commission Staff, 333 W. 4th Ave., Suite 220, Anchorage, AK 99501-2341.

19 AAC 10.200. LEGISLATIVE REVIEW. Territory that meets the annexation standards specified in 19 AAC 10.160 — 19 AAC 10.190 may be annexed to a borough or unified municipality by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including whether the

- (1) territory manifests a reasonable need for borough or municipal government that can be met most efficiently and effectively by the annexing borough or unified municipality;
- (2) territory is an enclave surrounded by the annexing borough or unified municipality;
- (3) health, safety, or general welfare of borough or unified municipality residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the borough or unified municipality to regulate or control the detrimental effect of those conditions;
- (4) extension of borough or unified municipality services or facilities into the territory is necessary to enable the borough to provide adequate services to borough or unified municipality residents, and it is impossible or impractical for the borough or unified

municipality to extend the facilities or services unless the territory is within the boundaries of the borough or unified municipality; (5) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of borough or unified municipal government without commensurate tax contributions, whether these benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(6) annexation of the territory will enable the borough or unified municipality to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the borough or unified municipality; and

(7) territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.210. LOCAL ACTION. Territory that meets the annexation standards specified in 19 AAC 10.160 — 19 AAC 10.190 and has been approved for local action annexation by the commission, may be annexed to a borough or unified municipality by the following action:

(1) borough or unified municipality ordinance if the territory is wholly owned by the annexing borough or unified municipality;

(2) borough or unified municipal ordinance and a petition signed by all of the voters and property owners of the territory approving of the annexation; or

(3) approval by a majority of voters residing in the territory voting on the question at an election held. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

Article 5. Standards for Merger of Municipalities

Section	Section
220. Standards	230. Local option

19 AAC 10.220. STANDARDS. (a) Two or more municipalities may merge if, upon completion of the merger, the remaining municipality meets the standards for incorporation of cities specified in 19 AAC 10.010 — 19 AAC 10.040, or boroughs specified in 19 AAC 10.045 — 19 AAC 10.060.

(b) Separate proceedings are not required for dissolution of a municipality that is being merged with another municipality. The dissolution occurs automatically at the time of the merger. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.230. LOCAL OPTION. Municipalities that meet the merger standards required under 19 AAC 10.220, and are approved by the commission for local option merger, may merge if the petition for merger is submitted by the number of voters required under AS 29.06.100(a), and if a majority of the voters in the remaining municipality vote in favor of the merger in a subsequent election. The election must be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

Article 6. Standards for Consolidation of Municipalities

Section	Section
240. Standards	250. Local option

19 AAC 10.240. STANDARDS. (a) Two or more municipalities may consolidate to form a new municipality if the new municipality meets the standards for incorporation of cities specified in 19 AAC 10.010 — 19 AAC 10.040, or boroughs specified in 19 AAC 10.045 — 19 AAC 10.060.

(b) Separate proceedings are not required for dissolution of the consolidating municipalities. The dissolutions occur automatically at the time of the consolidation. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567

19 AAC 10.250. LOCAL OPTION. Municipalities that meet the consolidation standards required under 19 AAC 10.240, and are approved by the commission for local option consolidation, may consolidate if the petition for consolidation was submitted by the number of voters required under AS 29.06.100(a), and if a majority of the voters in the remaining proposed new municipality vote in favor of the consolidation in a subsequent election. The election must be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123)

Authority: Alaska Const. art. X, AS 29.06.010 AS 44.47.980
sec. 12 AS 44.47.567



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

March 10, 1994
9:00 AM

Butrovich Room
Room 205

1. Call to Order (time and members present)
2. SB 291 - Borough Incorporation and Annexation
Sponsor - Senator Donley
Staff - Alexis Miller
DCRA - Dan Bockhorst - Questions model boroughs
Teleconference
3. Poll the Committee regarding a wrap-up by Duane Guiley
on the School Foundation Formula
4. Adjourn

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Local Government

Article X

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(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law. [Amendment approved November 6, 1990 - Effective January 2, 1991]

Article X

Local Government

Section 1 - Purpose and Construction.

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Section 2 - Local Government Powers.

All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Section 3 - Boroughs.

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Section 4 - Assembly.

The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. [Amendment approved August 22, 1972 - Effective October 14, 1972]

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Section 11 - Home Rule Powers.

A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

Section 12 - Boundaries.

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

Section 13 - Agreements; Transfer of Powers.

Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Section 14 - Local Government Agency.

An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

Section 15 - Special Service Districts.

Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.



LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

DATE: 3-15-94

Please accept the enclosed original(s) of written testimony for the SCRA SB291 teleconference hearing that was scheduled on 3-15-94.

A copy of this testimony was transmitted to your committee via fax on 3-15-94.

Thank you,

Post-It™ brand fax transmittal memo 7871		# of pages	3
To	Sen. Phillips	From	Tadacross Village
Co.		Co.	
Dept.		Phone #	883-5024
Fax #	465-4979	Fax #	

TO: JOYCE ERICKSON
FROM: TANACROSS VILLAGE COUNCIL
SUBJECT: STATEMENT
DATE: MARCH 14, 1994

PLEASE DELIVER TO MEETING BEING HELD ON FORMATION OF A
BOROUGH IN UPPER TANANA REGION ON BEHALF OF TANACROSS
VILLAGE COUNCIL...

THANK YOU VERY MUCH FOR YOUR HELP..

JERRY ISAAC SR.
PRESIDENT
TANACROSS VILLAGE COUNCIL.

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To: <u>Joyce E</u>	From: <u>Jerry Isaac</u>	
Co.	Co. <u>TVC</u>	
Dept.	Phone # <u>883-5021</u>	
Fax # <u>883-5020</u>	Fax # <u>883-4497</u>	

3145 NO.002 1:02

**Tanacross Village Council
Tanacross, Alaska 99776**

Telephone: 907 883-5024 Fax: 907 883-4497

To Whom It May Concern:

On behalf of the Tanacross Village Council I would like to submit this statement to the public hearing being held in Tok, Alaska regarding the formation of a borough.

The Tanacross Village Council does not have any feelings pro or con in the formation of a borough within the Upper Tanana area at this time. We are very interested in becoming aware of how the issue may affect our village and community in the future.

We strongly feel that there is a need to be active participants in activities that will lend themselves to facilitating a decision on the issue by the people. We are requesting that meetings be scheduled within all communities which will be affected by the formation of an organized borough.

Furthermore, the week of March 14, 1994 is a very poor week to solicit participation from from the Alaska Native communities within the area because it is the week of the Tanana Chief Conference, Elders Conference, and the Doyon Limited meetings being held in Fairbanks. The majority of our community members and leadership will be attending meetings throughout the week in Fairbanks.

Jerry Isaac

Jerry Isaac
President

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 21, 1994

SUBJECT: Including all regions in the state in an organized borough (SB 291)

TO: Senator Dave Donley

FROM: Tamara Brandt Cook
Director 713C

Here is the sectional summary you requested.

Sec. 1. Statement of findings and purpose.

Sec. 2. Establishes a committee on municipalities charged with consideration of means to eliminate or reduce disincentives and enhance incentive for the formation of boroughs, and with consideration of ways to ensure greater equity in the distribution of financial aid to municipalities. The report is due January 1, 1996.

Sec. 3. The local boundary commission is required to conduct a boundary study of the unorganized borough to determine which areas meet the standards for borough incorporation and which should be annexed to existing boroughs or unified municipalities. The study is due by May 1, 1996.

Sec. 4. The local boundary commission is required to notify the director of elections of each region that should be incorporated as a borough and each area that should be annexed. An election shall be held in each region to determine whether the voters desire incorporation or annexation in accordance with the study. If annexation is approved, it is effective when the election results are certified. If incorporation is approved it is effective under sec. 8 of the bill. If annexation or incorporation is disapproved, the local boundary commission may submit the proposal to the legislature and it may be disapproved by the legislature only as permitted under the state constitution.

Sec. 5. The Department of Community and Regional Affairs is required to prepare a provisional home rule charter for boroughs to be incorporated under this bill. The

Senator Dave Donley
February 21, 1994
Page 2

voters of a region scheduled for incorporation may petition for an amendment to the provisional charter for that new borough.

Sec. 6. Sets out a method for selecting a charter commission or an area to be incorporated. The commission prepares a proposed charter for voter approval. If no charter is prepared and approved, the provisional charter becomes the charter for the new borough.

Sec. 7. An election of initial borough officials shall be held by the first Tuesday in October 1997.

Sec. 8. A region is incorporated as a home rule borough on the first Monday following certification of the election of initial officials.

Sec. 9. The Act takes effect immediately.

TBC:gc
94-144.glc

Post-It™ brand fax transmittal memo 7871		# of pages • 2
To <i>Sen. Phillips</i>	From <i>Glen Marunde</i>	
Co.	Co.	
Dept.	Phone # <i>883-4601</i>	
Fax # <i>465-4979</i>	Fax #	

15 MAR 94

BOX 192
TOK. ALASKA

TESTIMONY ON SENATE BILL NO. 291

AN ACT RELATING TO INCLUDING ALL REGIONS IN THE STATE IN AN ORGANIZED BOROUGH OR UNIFIED MUNICIPALITY; AND PROVIDING FOR AN EFFECTIVE DATE.

DEAR C & RA SENATE COMMITTEE MEMBERS.

MY NAME IS GLEN MARUNDE AND I HAVE BEEN A RESIDENT OF THE TOK AREA FOR 33 YEARS. I MAKE MY LIVING AS AN ELECTRICAL AND MECHANICAL CONTRACTOR. I HAVE RAISED 5 CHILDREN HERE IN TOK.

I HAVE MIXED EMOTIONS CONCERNING SB NO 291. THERE ARE PARTS OF THIS BILL THAT ARE LONG OVERDUE AND THERE ARE PARTS THE CONCERN ME GREATLY.

MY FIRST CONCERN IS THE INTENT OF THE BILL. LINES 7 & 8 OF PAGE 1 WHICH STATE THAT THE INTENT OF THE BILL IS TO ELIMINATE THE UNORGANIZED BOROUGH CONCERN ME.

THE FRAMERS OF OUR CONSTITUTION DID A MARVELOUS JOB IN WRITING THE PORTION OF THE CONSTITUTION CONCERNING BOROUGHES. THE CONSTITUTION HAS WORKED VERY WELL. WHILE SOME BELIEVE THAT THE PROCESS OF PARTS OF OUR STATE CHANGING FROM UNORGANIZED BOROUGHES TO ORGANIZED BOROUGHES HAS BEEN TOO SLOW AND BELIEVE THAT IT WILL BENEFIT OUR STATE TO SPEED THE PROGRESS BY PASSING LEGISLATION TO ELIMINATE UNORGANIZED BOROUGH. MANY OF US WHO LIVE IN THE UNORGANIZED BOROUGH BELIEVE DIFFERENTLY.

PASSING LEGISLATION TO ELIMINATE AN IMPORTANT PART OF OUR STATE CONSTITUTION IS NOT A GOOD PRECEDENT TO ESTABLISH!

THERE IS A PART OF THIS BILL THAT I APPLAUD. LINES 13, 14, AND 15 CALL FOR A PROCESS THAT IS AT LEAST 25 YEARS OVERDUE. HERE'S WHAT IT SAYS "THE COMMITTEE SHALL CONSIDER MEANS TO ELIMINATE OR REDUCE THE DISINCENTIVES AND ENHANCE INCENTIVES FOR THE FORMATION OF BOROUGHES".

IN MY OPINION THE INTENT OF SB 291 SHOULD BE CHANGED FROM ELIMINATING THE ORGANIZED BOROUGH AND CHANGED TO "CONSIDER MEANS TO ELIMINATE OR REDUCE DISINCENTIVES AND ENHANCE INCENTIVES FOR THE FORMATION OF INCENTIVES"

I STRONGLY OBJECT TO THE LANGUAGE IN LINES 13, 19, 20 AND 21. WHICH STATE "A PROPOSAL FOR BOROUGH INCORPORATION MAY BE DISAPPROVED BY A CONCURRENT RESOLUTION ADOPTED BY A MAJORITY

OF EACH HOUSE WITHIN 45 DAYS AFTER THE THE PROPOPSAL IS
SUBMITTED TO THE LEGISLATURE. IF IT IS NOT DISAPPROVED,
BOUROUGH INCORPORTION BECOMES EFFECTIVE IN ACCORDANCE WITH
SEC. 8 OF THIS ACT.

WHAT A LEFT-HANDED, BACKWARDS, SNEAKEY WAY TO IMPOSE A LAYER
OF GOVERNMENT ON A GROUP OF THEIR FELLOW ALASKAN CITIZENS
WHO HAVE VOTED NOT TO BECOME AN UNORGANIZED BOROUGH.
WHAT A WAY TO CONTROL ALASKANS WOTHOUT THEIR CONSENT!
THOMAS JEFFERSON WILL SURELY TURN OVER IN HIS GRAVE IF THIS
EVENT TAKES PLACE.

WHAT A TERRIBLE PRECEDENT FOR FURTURE ACTIONS BY OUR
LEGISLATURE.

~~AMERICAN SOLDIERS HAVE BEEN TRYING TO PREVENT THE IMPOSITION
OF UNWANTED GOVERNMENT IN FOREIGN COUNTRIES.~~ *BM*

ALSO, THE BILL DOES NOT ADDRESS WHAT THE SITUATION WOULD BE
IF THE MEMBERS OF EACH HOUSE ACTUALLY PASSED A RESOLUTION
DISAPPROVING A PROPOSAL FOR BOROUGH INCORPORATION.
WHAT WOULD BR THE SITUATION IN THIS CASE???

LINES 18, 19, 20 AND 21 SHOULD BE ELIMATED FROM THIS BILL.

ADDITIONAL CONCERNS:

WHAT ABOUT NATIVE SOVEREIGNTY. WOULD THE SOVEREIGN NATIVE
VILLAGES IN A NEWLY ORGANIZED BOROUGH BE EXEMPT FROM
PARTICIPATING IN BOROUGH GOVERNMENT CAUSING A "SWISS
CHEESE" PATTERN AND EMASCULATING MOST OF THE NEW
BOROUGHs???

THANK YOU FOR CONSIDERING MY CONCERNS.

Glenn Marunde
GLEN MARUNDE, TOK RESIDENT, UNORGANIZED BOROUGH

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

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NOME, ALASKA 99762-0041
PHONE: (907) 443-5157
FAX: (907) 443-2409

February 28, 1994

The Honorable Randy Phillips
Senator - District L
State Capitol, Room 103
Juneau, Alaska 99801-1182

RE: SB 291 - "An Act relating to including all regions in the state in an organized borough or unified municipality; and providing for an effective date."

Dear Senator Phillips:

This is in response to your request that the Department of Community and Regional Affairs advise you of any technical concerns it has regarding the above referenced bill. We offer the following comments in this respect. I wish to stress that these comments are not intended to either express support for or opposition to the legislation.

Sec. 2(b) provides that, "Members are not entitled to receive compensation, but the members appointed under (a)(3) - (7) of this section are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180." It is presumed that the other members of the committee [e.g., the chair of the Local Boundary Commission, who is not appointed under Sec (a)(3) - (7)] are also entitled to per diem and travel expenses.

Sec. 3 requires the Local Boundary Commission to conduct a boundary study to determine "(1) which regions meet the standards set out in AS 29.05.031 for borough incorporation; and (2) which areas should be annexed to existing boroughs or unified municipalities."

The Local Boundary Commission completed a "model borough boundary study" of the unorganized borough in 1992. The study represented a considerable effort on behalf of this agency and the Commission. The study identified areas of the unorganized borough which, based upon municipal boundary criteria, had

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strong ties to five existing boroughs and unified municipalities. The study also identified nineteen areas of the unorganized borough that independently met the boundary criteria for borough governments. A map of these twenty-four areas was provided to you last year. Since the study was completed, no areas of the unorganized borough have been annexed to existing boroughs nor have any of these regions formed new boroughs.

The Commission's model boundary study perhaps differs from the study called for in Sec. 3 of SB 291 to the extent that the latter requires a determination as to which areas meet all four of the borough incorporation standards set out in AS 29.05.031. An examination of whether areas of the unorganized borough were economically viable as borough governments [as required by AS 29.05.031(a)(3)] was beyond the scope of the Commission's model boundary study.

However, during 1988 - 1990 the Department of Community and Regional Affairs and others conducted eleven borough feasibility studies. The studies examined approximately 80% of the unorganized borough. Generally, the studies showed most regions of the unorganized borough were capable of providing at least the minimum services required by law (i.e., education, planning, platting, land use regulation, tax assessment and tax collection).

Since those studies were conducted, however, the State has trimmed Revenue Sharing and Municipal Assistance funds by some 25 percent. Those two sources of local government funds are proposed for even more significant cuts this year. Additionally, federal impact aid to education (PL 81-874) is currently being considered for re-authorization by Congress. Prospective changes to that federal program may also have significant effects on the capacity of unorganized areas to support borough government. Of course, those changes also impact existing borough governments.

Sec. 4 (d) provides, "If a borough incorporation is disapproved, the commission may submit the proposal for incorporation to the legislature during the first 10 days of the First Regular Session of the Eighteenth Alaska State Legislature" (emphasis added). Obviously that is in error. Presumably, the line should read "First Regular Session of the Twentieth Alaska State Legislature."

Other comments: CSSB 164(JUD) would allow an unincorporated region to form a unified municipality. As noted previously by the Local Boundary Commission, there has long been interest in such a provision. The Chairman of the House C&RA Committee also expressed strong support for that particular provision during the Committee's February 22 meeting with the Commission. If CSSB 164 becomes law, it would be ideal to accommodate that option in SB 291. For example, you may wish to amend Sec. 4 of SB 291 to provide that, ". . .the local

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boundary commission shall notify the director of elections of each region the commission determines should be incorporated as a borough or unified municipality"

I thank you for the opportunity to comment on this legislation.

Cordially,

A handwritten signature in cursive script, appearing to read "Robert K. Walsh".

Robert K. Walsh
Director

cc: Senator Dave Donley, sponsor
Bruce Geraghty, Deputy Commissioner, DCRA
Local Boundary Commission members

III. MAJOR PROJECTS

Model Borough Boundaries Project

On December 4, 1992, the Commission set model unorganized borough boundaries for the Dillingham/Nushagak area. That action was especially significant since it marked the conclusion of three years of public hearings and meetings on model borough boundaries statewide. The LBC has now adopted model boundaries for the entire unorganized borough. During the course of the model boundaries study, the Commission held public hearings in 88 separate communities. The extensive public hearing process familiarized the Commission with existing and potential regional government boundary issues throughout Alaska.

In 1992, the LBC held model borough boundary hearings in 22 communities in the following six regions:

Southeast;
Prince William Sound;
East Central (Delta Greely, Copper River, Alaska Gateway);
Calista, (Lower Yukon, Lower Kuskokwim, Kuspuk);
Western Aleutian/Pribilofs (Adak, Unalaska, St. George-St. Paul);
Greater Bristol Bay.

Every LBC decision regarding borough boundaries affects three groups; residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Formation of new regional governments is a sensitive issue in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced. On the basis of such factors, the LBC concluded that, rather than examining regional boundaries only when petitions are lodged, the Commission would invite public testimony from throughout the entire state and adopt 'model' boundaries. Such 'model' boundaries will be used as a frame of reference to help evaluate future petitions. They will be considered when existing organized boroughs seek to annex unorganized borough territory or when unorganized borough residents petition for borough incorporation.

The Commission and its DCRA staff began planning the model boundary study in mid-1989. The Commission decided to focus first on the areas for which petitions for incorporation or annexation were pending. Research on the project began in earnest in 1990.

The LBC began its study of each area by sending out a large eight-page tabloid which explained the study and set out the questions the LBC expected to consider in its decision-making process. Each tabloid included a map on which recipients were requested to draw suggested boundaries. DCRA prepared and widely distributed a report of its findings and recommendations for the area, and then the LBC held hearings in as many communities as resources allowed.

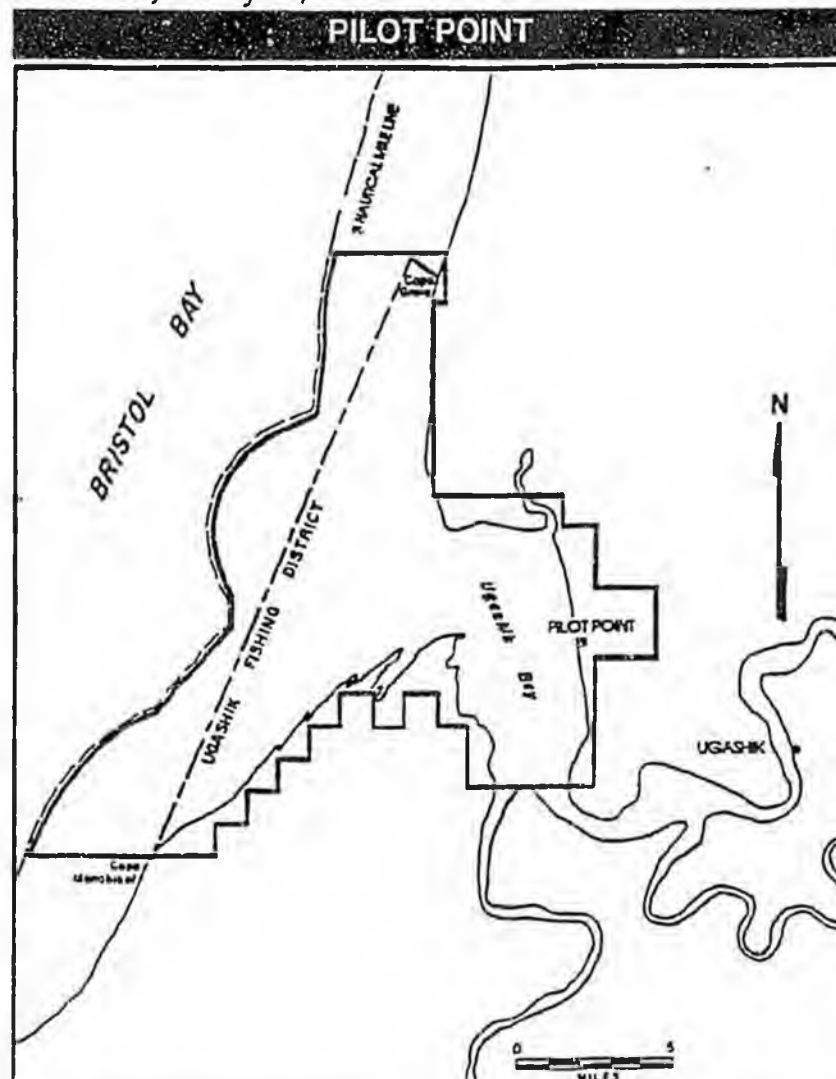
The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be set. Municipal governments and other public and

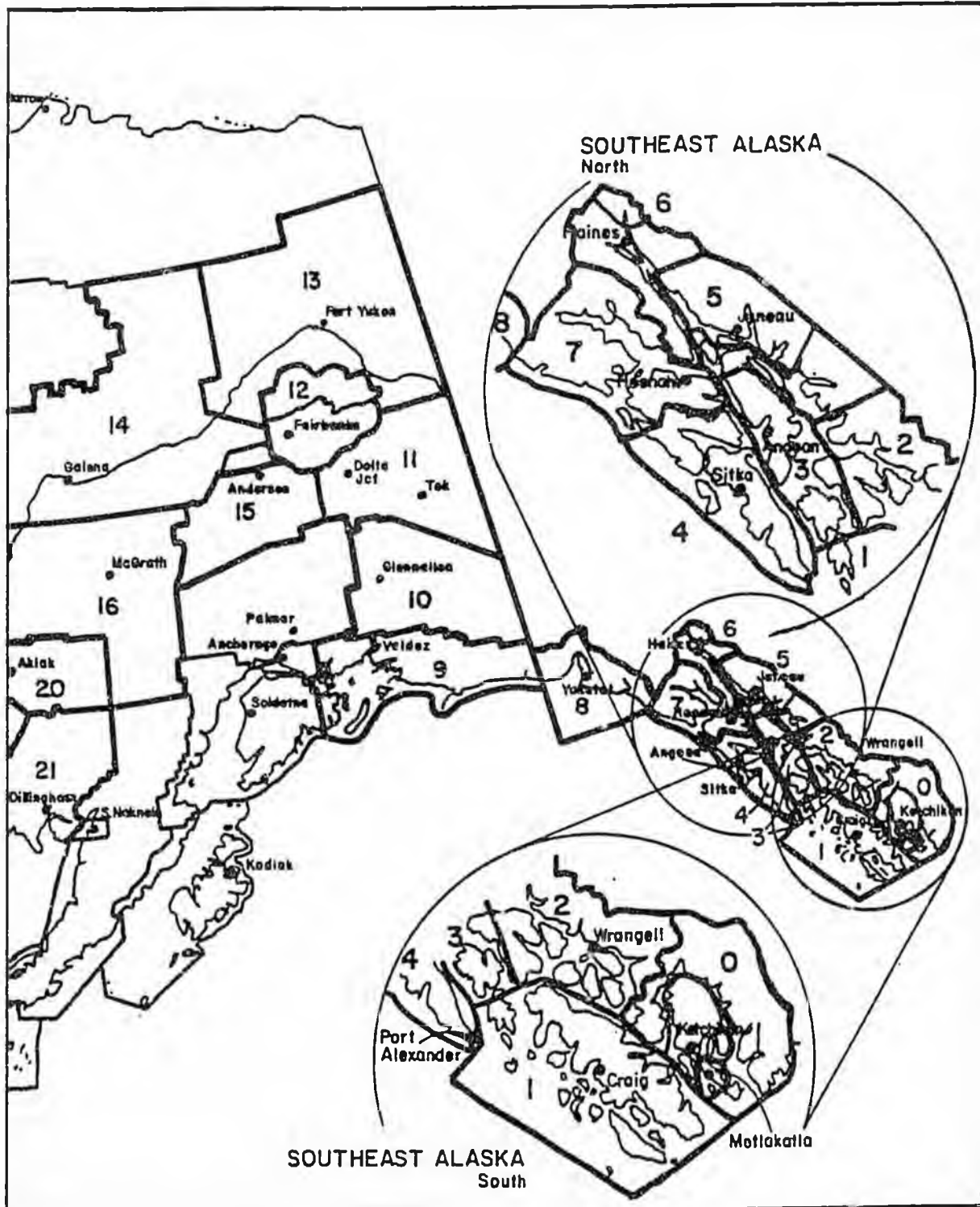
City of Pilot Point

In October, 1990, voters in the community of Pilot Point petitioned to incorporate as a second class city. Pilot Point is a Lake & Peninsula Borough community of 50 to 80 permanent residents on the east shore of Ugashik Bay.

The LBC held its public hearing on the petition on October 12, 1991. At the decisional meeting immediately following the hearing, the LBC approved the petition, with minor changes to the boundary description, as recommended by DCRA. At the request of petitioners, the LBC ordered that voter approval of incorporation be contingent upon voter approval of a 3% sales and use tax on commercially caught fish. The LBC also deleted the provision for a property tax, which had been inadvertently included in the petition.

On January 7, 1992, Pilot Point residents voted 33 to 8 in favor of incorporation. Pilot Point voters also authorized the City to levy a 3% raw fish tax. The City of Pilot Point became Alaska's 165th municipal government upon certification of the incorporation election by the Division of Elections on January 22, 1992.





IV. SPECIAL ISSUES

Suggested Changes to Title 29

The LBC and its DCRA staff work with many of the state's municipalities each year. As a result, the Commission routinely confronts requirements and procedures which appear, in practice, to have a different result for municipalities or the state than the legislature probably intended when enacting the statute. The following are some suggested changes to Title 29 which the Commission believes would be in Alaskans' best interest.

- Allow direct incorporation of home rule cities and unified municipalities.
- Provide state oversight in the reclassification of 2nd class cities in the unorganized borough.
- Technical amendments to laws relating to municipal dissolution.

Amend AS 29.05.011 to Permit Incorporation of Home Rule Cities - Currently, residents of an unincorporated community may not directly incorporate as a home rule city. Instead, the community must first incorporate as a first or second class city, and then go through the process of adopting a charter. In 1985, the Legislature amended state law to allow home rule boroughs to form directly. The LBC believes it would be sensible and more cost-efficient to allow an unincorporated city with a least 400 permanent residents (the minimum number of residents required for first class city status) to incorporate directly as a home rule city in a one-step process.

Amend AS 29.04.040 and AS 29.10.010 to Require LBC Approval of Reclassification of a Second Class City in the Unorganized Borough - State law currently allows a second class city with a population of at least 400 to reclassify as a first class city without approval from the state. A second class city with 3,500+ residents and an area of at least 35 square miles may also become a home rule city without approval from the state. Such a reclassification in the unorganized borough is an event of major state interest because first class and home rule cities in the unorganized borough must operate municipal school districts. Although AS 14.17.139 requires Department of Education approval for the formation of any new district with less than 250 students, DOE has indicated that it and the Attorney General's office have doubts about the enforceability of that requirement. Without state approval being required for reclassification, the state faces the prospect of a sharp increase in the number of small city school districts. Presently, there are 24 second class cities in the unorganized borough which could, under the current rules, reclassify to first class status. There are also six unincorporated communities with enough population to incorporate and then reclassify to first class. The LBC recommends that these reclassifications be treated similarly to direct incorporation of first class cities, requiring a petition to the LBC.

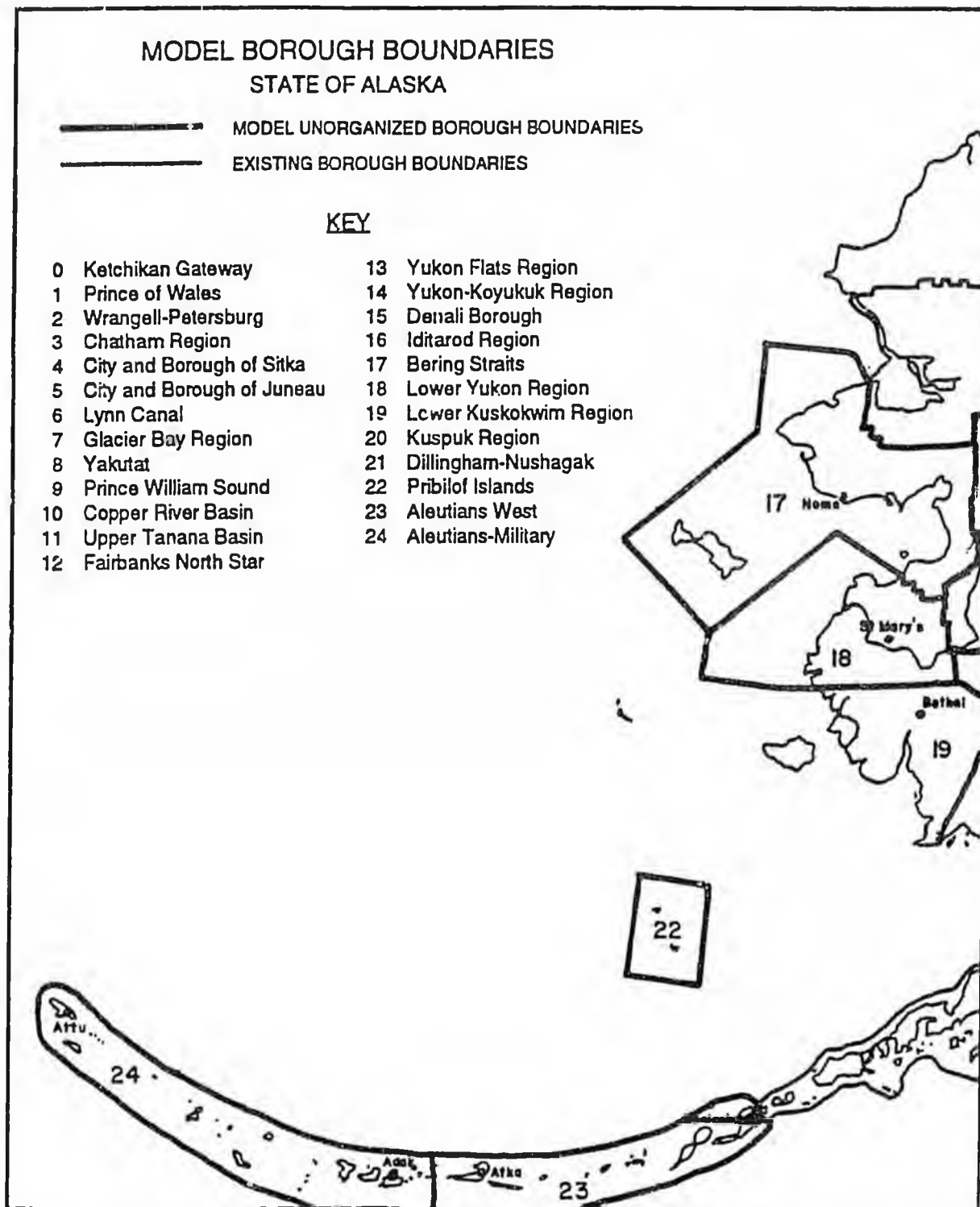
LOCAL BOUNDARY COMMISSION

MODEL BOROUGH BOUNDARIES STATE OF ALASKA

-  MODEL UNORGANIZED BOROUGH BOUNDARIES
 EXISTING BOROUGH BOUNDARIES

KEY

- | | |
|------------------------------|---------------------------|
| 0 Ketchikan Gateway | 13 Yukon Flats Region |
| 1 Prince of Wales | 14 Yukon-Koyukuk Region |
| 2 Wrangell-Petersburg | 15 Denali Borough |
| 3 Chatham Region | 16 Iditarod Region |
| 4 City and Borough of Sitka | 17 Bering Straits |
| 5 City and Borough of Juneau | 18 Lower Yukon Region |
| 6 Lynn Canal | 19 Lower Kuskokwim Region |
| 7 Glacier Bay Region | 20 Kuspuk Region |
| 8 Yakutat | 21 Dillingham-Nushagak |
| 9 Prince William Sound | 22 Pribilof Islands |
| 10 Copper River Basin | 23 Aleutians West |
| 11 Upper Tanana Basin | 24 Aleutians-Military |
| 12 Fairbanks North Star | |



LBC Regulations

In 1991, the Commission undertook a thorough review of all of its regulations, including those relating to municipal incorporation. The LBC worked with experienced legal counsel to complete the task. The Commission adopted the new regulations on June 29, 1991.

The revised regulations were reviewed and approved by the Department of Law on June 19, 1992 and by the Lieutenant Governor on July 1, 1992. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code. The revised regulations resolve problems found with the old rules, and are easier for petitioners to understand and use.

Amend AS 29.06.190 to Allow Direct Incorporation of Unified Municipality - Residents of a number of regions in Alaska's unorganized borough have expressed an interest in being permitted to incorporate unified municipalities. Currently, only incorporated cities and an organized borough may unify. The Commission believes it would be beneficial to allow the direct incorporation of unified municipalities in regions with multiple communities, whether or not those communities or a borough were incorporated prior to unification.

Amend AS 29.06.470 & AS 29.06.500 to Clarify Dissolution Standards - In 1988, the Legislature amended sections .470 and .500 to authorize the dissolution of a municipality if more than 50% of the voters in the last general election petitioned for dissolution and if the LBC determined that dissolution was in the best interests of the state. However, when the dissolution laws are read as a whole, it appears that the LBC, regardless of the state's best interests, may have no discretion to reject a dissolution petition when the municipality is free of debt or has satisfied its creditors with a method of repayment, and either a) ceases to use each of its mandatory powers or b) no longer meets the standards for incorporation. The LBC believes it should have the discretion to consider the state's best interests in all dissolutions, and recommends that the language be clarified.

In addition, AS 29.06.470 refers to the last "general" election in the municipality when describing how to determine the required number of signatures on a dissolution petition filed under AS 29.06.470(a)(3). However, AS 29.06.460 uses last "regular" election as the basis for determining the required number of signatures on a dissolution petition filed under its provisions. Under state law, municipal elections are called "regular" elections, while "general" election usually refers to a state election. If the Legislature intended that the number of required signatures required under AS 29.06.470 be based upon the turnout in the last municipal election, then, to be clear, the term should be changed from "general" to "regular."

Local Boundary Commission Compensation

Volunteer service on the Local Boundary Commission has become increasingly complex and time-consuming. The LBC rarely meets less than 20 times a year. Members routinely undertake difficult travel to remote communities to conduct hearings and take public testimony. An example of the type of arduous schedule is demonstrated by Chairman Hargraves' itinerary during a recent week in November, 1992 (see table on following page). During the referenced week, he chaired five separate public hearings, heard the concerns of hundreds of Alaskans, endured difficult weather conditions in small aircraft and sacrificed a full week and much of the Thanksgiving holiday.

Issues addressed by the Commission, such as incorporations, annexations and model boundaries, 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.

Because of the often complex and sensitive nature of the issues brought before the Commission, LBC members must spend considerable time preparing for meetings and hearings. Since a number of LBC actions are challenged in court, work often does not end when a decision is made.

LOCAL BOUNDARY COMMISSION

LBC CHAIRMAN'S ITINERARY NOVEMBER 19-26, 1992

<u>DATE</u>	<u>DEPARTURE</u>	<u>DESTINATION</u>
11/19	Ketchikan	Anchorage
11/20	Anchorage	Palmer <i>Palmer Hearing at 7:00 pm</i>
11/21	Anchorage	Cordova <i>Cordova Hearing at 7:00 pm</i>
11/22	Cordova	Anchorage
11/23	Anchorage	King Salmon <i>Naknek Hearing at 7:00 pm</i>
11/24	King Salmon	Togiak <i>Togiak Hearing at Noon</i>
11/24	Togiak	Dillingham <i>Hearing at 7:00 pm</i>
11/25	Dillingham	Anchorage
11/26 (Thanksgiving Day)	Anchorage	Ketchikan

The expertise required in the LBC's work is illustrated by history. Before the Commission assumed responsibility, most local boundary actions, including incorporations, were given directly to the courts. The savings realized by processing such petitions through the Local Boundary Commission are enormous. The Commissioners have developed comprehensive regulations which they apply to their actions, and they must also ensure compliance with the broadly-interpreted provisions of the Federal Voting Rights Act.

With 165 municipalities in Alaska today, and more likely to form each year, the number of local boundary actions the LBC must handle is almost certain to grow. Despite the major commitment of time and energy demanded from the five members of the Commission, the Commissioners currently are volunteers, receiving money only for per diem allowances, with no additional compensation for their time and expertise.

Because the burden of the LBC's workload is greater than might reasonably be expected of volunteers, bills have been introduced in the last several sessions of the legislature to provide for compensation of \$150 per day to each Commission member. Without such compensation, the members believe it will become more and more difficult for the State to find qualified Alaskans who are willing to stay on the Commission long enough to give it the continuity and experience demanded by the complexity of the decisions.

The fiscal impact of the proposed compensation would be minimal. Based upon an estimate of 25 one-day meetings per year and compensation of \$150 per day per member, the total cost of compensation would be only \$18,750 per year. Accordingly, the Commission believes it is both reasonable and responsible to again raise the issue of compensation, and requests the legislature to consider this request.

Meetings On-Site vs. Teleconference

A rise in the number and complexity of petitions, coupled with the legitimate need to reduce the overall State operating budget, compels the Commission to make judgments regarding the most appropriate way to conduct its hearings and meetings. Complex and controversial municipal boundary proposals make it highly desirable that members of the Commission be present in the affected community or region whenever they conduct hearings. This allows the Commissioners to familiarize themselves first-hand with the unique circumstance surrounding each municipal boundary proposal and to deal directly with the petitioner and interested parties. In virtually every instance, petitioners and interested parties prefer to speak with the Commission in person.

However, during 1992, limited travel funds in many cases allowed only three of the five members of the commission (60%) to attend hearings. Even then, the Commission has been forced to combine several hearings on a single trip (see sample itinerary listed in the discussion of the issue of compensation for the Commission). Such demanding travel schedules are taxing on the members of the Commission.

Members of the Commission who do not travel to the hearing sites typically participate by teleconference or review the tape recordings of the hearings prior to the decisional session. In some instances, parties have raised strong objections when a member who did not attend a hearing in person (but did review the tape recordings), later voted on a petition.

Meetings of the Commission which involve neither hearings nor decisional sessions to act on petitions are almost invariably carried out by teleconference. Of the 32 meetings held by the Commission during 1992, approximately one-third were conducted entirely by teleconference.

It would require a doubling of the Commission's travel allocation to accommodate all requests for on site meetings and hearings. However, the Commission is all too aware that the financial resources of the State of Alaska are becoming more and more limited. Notwithstanding, the LBC wishes to inform the legislature of these matters and the likelihood that these issues will persist over the coming year.

Municipal Tax Limitation Issues

Concerns have been expressed over the lack of reasonable limits on the authority of municipalities to levy taxes. In one particular case, a city government with a population of 53 year-round residents levies a 3% sales tax on commercially-caught fish. On the basis of preliminary fisheries data, it appears that the city in question will collect some \$650,000 from its tax in 1992.

The estimated tax revenue in this case amounts to more than \$12,000 for each resident of the community. This compares to a per capita average of all taxes levied by the remaining 164 municipal governments in Alaska amounting to \$1,165.⁸ If municipal taxes on oil and gas properties were excluded, the average per capita municipal tax would be only \$704.

Presently, the law imposes no limitation on the rate at which a municipal government may levy a sales tax.⁹ Additionally, according to the State Attorney General's Office, the limitations imposed by AS 29.45.090(b) do not apply to the levy of sales taxes.¹⁰ Thus, there appear to be no legal limitations whatsoever on a municipality's authority to levy sales taxes (subject to voter ratification of rate increases). It was recently reported that officials of the city in question were even considering an increase in the tax beyond the current 3% levy.

The Local Boundary Commission is highly sensitive to the needs of municipal governments. Key among these is the ability to generate revenues necessary to provide local services. As State funding for local services continues to decline, this ability will become even more critical.

Nonetheless, the Commission believes that legitimate questions have been raised concerning the current lack of revenue limitations as noted. The Commission wishes to ensure that the legislature is aware of these concerns.

⁸ Tables published in Alaska Taxable, (DCRA, January 1992) on pages 14 - 17 indicate that during 1991, municipalities in Alaska collected \$79,457,675 in sales taxes; \$20,628,842 in "special taxes" such as alcohol, tobacco, bed and commercially caught fish; \$278,459,105 in non-oil & gas property taxes and \$248,364,653 oil and gas property taxes. These figures total \$626,910,275. According to the State Revenue Sharing and Municipal Assistance - FY 92 Final Report (DCRA March 1992) the populations of all municipal governments in Alaska total 538,079. Thus, the statewide average per capita municipal tax collected from all sources equals \$1,165.

⁹ Chapter 159, Session Laws of Alaska 1990, repealed a 6% limitation on sales taxes.

¹⁰ AS 29.45.090(b) states that "A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes (1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. The Attorney General's Office has verbally advised the Department of Community and Region Affairs that this law applies only to property taxes.

V. LITIGATION

During 1992, two parties filed court appeals over the incorporation of the City and Borough of Yakutat. Also during 1992, the Superior Court acted on three appeals that had been filed earlier regarding other actions of the Commission. In every case, the Superior Court rulings have been appealed to the State Supreme Court. The matters under litigation are summarized below.

Petitioners for Incorporation of City and Borough of Yakutat vs. Local Boundary Commission. Chugach Alaska Corporation vs. Local Boundary Commission. On June 4, 1992, the petitioners for the incorporation of the City and Borough of Yakutat filed an appeal with Superior Court over the amendment of their petition to exclude territory west of 141st meridian. The appeal centered on allegations that:

- 1) The Commission abused its discretion and acted beyond its statutory authority when it amended the western boundary of the petition to exclude the territory from the 141st meridian to Cape Suckling.
- 2) The Commission lacks authority to adopt regulations concerning standards for borough incorporation, and the Commission erred in relying upon such regulations in the amendment of the western boundary.
- 3) The amendment of the western boundary violated Article X, Section 3 of the Constitution of the State of Alaska which provides that each borough shall embrace an area and population with common interests to the maximum degree possible.
- 4) The amendment of the western boundary operated to deprive the petitioners of their rights to due process of law under Article X and Article XIV of the Amendments to the U.S. Constitution, and under Article I, Section 7 of the Constitution of the State of Alaska.

On August 10, 1992, Chugach Alaska Corporation filed an appeal with Superior Court over the Commission's decision to approve the petition, with or without the boundary amendment. This appeal alleged that:

- 1) The Commission erred in granting the petition because the proposal failed to meet population standards concerning size, stability, interrelationship and integration; and that it also failed to meet standards regarding the human and financial resources needed to operate a borough.
- 2) The Commission erred in applying regulations which were not in effect when the petition was filed.
- 3) The Commission committed procedural errors in the consideration of the petition.
- 4) Approval of the petition violates Article X, Section 1 of the Constitution of the State of Alaska which mandates a minimum number of local governmental units.

The two appeals were consolidated into one case on October 6, 1992. Parties are currently preparing briefs in the matter.

LOCAL BOUNDARY COMMISSION

City of Ekwok vs. Local Boundary Commission. (Nushagak Villages litigation) - As was reported last year, this case was filed on February 22, 1989, by eleven cities, village councils and native corporations from the Nushagak River area. The appeal sought to exclude territory from the northwest portion of the Lake and Peninsula Borough.

On November 18, 1992, the Superior Court ruled that (1) the notice procedures were deficient; (2) such deficiencies had a diminished citizen involvement; (3) there was no de facto incorporation; (4) the Commission's previous reconsideration of its own decision did not constitute a reconsideration on the merits; and (5) laches does not preclude appellants from seeking relief. Consequently, the court ordered the Commission to reconsider the northwest boundary of the Lake and Peninsula Borough.

The State Attorney General's Office and the Lake & Peninsula Borough have appealed the matter to the State Supreme Court. In the interim, parties in the case are working out an agreement with respect to compliance with the Superior Court order.

David Shaw, Valleys Borough Support Committee vs. Local Boundary Commission.

As was reported last year, on May 11, 1990, the Local Boundary Commission issued its written decision approving the petition to incorporate the Denali Borough. At the same time, the LBC rejected two competing petitions. One was an incorporation petition filed by supporters of a proposed Valleys Borough, and the other was an annexation petition filed by the Matanuska-Susitna Borough. All three petitions sought annexation or incorporation of a large overlapping area in and around Denali National Park and the nearby communities. The LBC considered the arguments and evidence presented through the petitions, DCRA's investigation and report, and seven public hearings. It then decided that the Denali Borough petition was the one best meeting the borough standards set out in the Constitution, statutes and regulations.

David Shaw, acting for the Valleys Borough Support Committee, appealed the LBC's decision. In addition to a question under the Voting Rights Act, the issues raised in the appeal include:

- 1) Does the LBC have the authority to ~~reject~~ a petition which meets minimal statutory criteria?
- 2) If presented with competing petitions which may all meet minimal criteria, does the LBC have the authority to choose and approve only one to be placed on the ballot?
- 3) Does the LBC have the authority to make approval of borough incorporation contingent upon passage of a ballot measure regarding a tax proposal?
- 4) Does the LBC have the authority to adopt regulations on the incorporation of cities and boroughs?

After briefing the issues, the appellants and the Attorney General's office presented their oral arguments in Fairbanks on November 26, 1991. At the hearing, the court ruled in the

Boundary Commission's favor on the question of connecting the incorporation election with a tax proposal, as well as on the Voting Rights question. On May 21, 1992, the Court ruled in favor of the Commission with respect to all of the remaining points.

The Valleys Borough Support Committee subsequently filed an appeal with the State Supreme Court. The appellant's appeal brief was filed on December 16, 1992.

Jack Keane and Concerned Citizens of Bristol Bay vs. Local Boundary Commission.

As reported last year, a group describing themselves as 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. Appellants claimed lack of proper notice and abuse of discretion by the LBC.

On September 3, 1992, the Superior Court ruled in favor of the Local Boundary Commission in the matter. The decision of the Superior Court was subsequently appealed to the Supreme Court. Parties are currently preparing briefs in the matter.

VI. FUTURE ISSUES

Over the past year, the LBC and its DCRA staff have received questions and requests for information on a number of municipal boundary proposals. These are discussed below.

Potential City Incorporations

Potential exists for several incorporation petitions in the near-term. Interest has been evident in several communities, as described in the following narrative.

A group of resident voters in the Kenai Peninsula Borough developed a petition to incorporate a second class **City of Nikiski**, encompassing territory on both the east and west shores of Cook Inlet. Backers of the proposal intended to file the petition in 1992. However, an informal vote taken by Tyonek residents at a village meeting on May 21 reflected overwhelming opposition to inclusion in the proposed City. The Nikiski organizing committee has been considering whether to continue to pursue incorporation efforts with modified boundaries.

Residents of **Nelson Lagoon**, a community in the Aleutians East Borough have recently worked on preparing a petition to incorporate as a second class city. However, no petition has been filed yet.

Anchor Point residents contemplating city status requested and received information regarding municipal incorporation procedures and standards.

A group of **Talkeetna** residents requested and received technical assistance in exploring second class city incorporation.

Residents of the Kenai Peninsula Borough's **Bear Creek** Fire Service Area located 6 miles from Seward advised that they were exploring incorporation of a city. Local interest in annexation was reportedly prompted by the City of Seward's study of the merits of annexing approximately one-half of the service area.

Residents of **Gustavus** have recently discussed the option of incorporation as a second class city.

Residents of **Hyder** are also reportedly exploring the merits of forming a city government.

Takotna residents met to explore city incorporation.

Residents of **Glacier View** within the Matanuska-Susitna Borough have expressed interest in incorporation.

Potential Borough Incorporations

A number of other cities and communities have expressed interest in borough incorporation, and particularly in the formation of single-community boroughs. Borough formation remained an issue of widespread interest in 1992. Several factors may promote continued impetus toward borough incorporation. These include declining state budgets, local concerns over allocation and development of resources and legal challenges to the state's method of funding schools.

For nearly two years, **Wrangell** residents have been considering studying the question of forming a single-city borough. Local officials are reportedly in the initial stages of drafting a petition for incorporation.

Growing interest has been evident in incorporation of an organized borough which would include the **Dillingham** Census Area.

The City of **Pelican** has expressed interest in borough formation in recent years.

Potential City Annexations

Several cities have expressed interest in annexing territory during the near future. These include the following:

The **Fairbanks** City Council has adopted an ordinance authorizing annexation of 454.74 acres, inhabited by approximately 20 residents. The estimated value of the property is approximately \$16,850,000. The petition for annexation was filed with the Department on January 12, 1993.

As reported earlier in this report, the City of **Seldovia** has committed to seeking the annexation of 35 lots using the legislative review method. All of the lots exist as enclaves within the boundaries of the City.

The Council of the City of **Seward** has authorized the filing of a petition for annexation of approximately 8.125 square miles. Staff provided officials of the City of Seward with information and materials needed to develop the petition.

The City of **Soldotna** is considering an ordinance (#559) for voluntary annexation of certain commercial properties.

Staff met with officials of the City of **Akutan** concerning their interest in annexing upwards of 70 square miles (Akutan Island and the remainder of Akutan Bay). City officials have indicated that they plan to submit a petition for the annexation of this territory in the near future.

The City of **King Cove** expressed plans to submit a proposal for legislative review annexation of some 13 square miles inhabited by about 20 individuals. The territory includes the airport, a potential hydroelectric project, and territory suitable for use by floating fish processors (Leonard Harbor). Staff provided information and materials necessary for the development of the petition.

LOCAL BOUNDARY COMMISSION

The City of **Newhalen** has requested information regarding standards and procedures for annexation. We have been advised that the Newhalen City Council is preparing a proposal to annex adjacent unincorporated **Iliamna**.

Akhiok city officials are reportedly considering annexation of territory during 1993.

Officials of the City of **Bettles** have been exploring the prospect of annexing the immediately adjacent settlement of **Evansville**.

Staff provided information to the City of **Chignik** concerning standards and procedures for annexation.

Potential Consolidations

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. Unlike unification, consolidation 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. In order for consolidation to be approved, the new municipality must meet the appropriate standards for incorporation.

During 1992, three groups were seriously studying the merits of consolidating a city and a borough. Local government officials in Ketchikan are studying the merits of consolidating the City of **Ketchikan** with the Ketchikan Gateway Borough. Individuals in the Fairbanks area are reportedly circulating a petition to consolidate the **Fairbanks North Star Borough** with the **City of Fairbanks**. **Kodiak** officials are also considering the merits of consolidating the **City of Kodiak** and the **Kodiak Island Borough**. The LBC's staff has provided information to all three groups.

Potential Dissolutions

Due to staffing reductions, DCRA lacked resources to investigate the status of potentially inactive municipalities in the **Yukon-Kuskokwim** area pursuant to AS 29.06.450(b). At present, these include the inactive second class cities of **Atmautluak**, **Kasigluk**, **Newtok**, **Tununak** and **Tuluksak**. Staff will proceed with these investigations as resources permit. If the Commission concludes any of the municipalities meet the standards for dissolution, it would present its recommendations to the Legislature. The **Tuluksak** Tribal Council has reportedly decided to initiate dissolution proceedings for the non-functioning City of Tuluksak. DCRA regional office staff have committed to assist the Tuluksak Tribal Council in the preparation of the petition for dissolution.

Potential Detachments

A petition to detach **North Pole** and **Salcha**, from the **Fairbanks North Star Borough** has been filed and is under review.

Akutan residents and officials have expressed interest in detachment from the **Aleutians East Borough**.

Alexander Creek residents have been considering petitioning for detachment from the **Matanuska-Susitna Borough** and incorporation of a new borough.

Chiniak residents are contemplating detachment from the **Kodiak Island Borough** of Chiniak and several villages within the Borough. Chiniak is a community of 200 people, linked to Kodiak by some 40 miles of road.

LOCAL BOUNDARY COMMISSION

VII. RECOMMENDATIONS FOR ANNEXATION UNDER ARTICLE X, § 12, ALASKA CONSTITUTION

The Local Government Article of the Alaska Constitution provides that the Local Boundary Commission may present proposed boundary changes to the legislature during the first ten days of any regular legislative session. The change becomes effective 45 days after being presented to the legislature or at the end of the session, whichever comes first, unless a majority of the members of each house concurs in a resolution disapproving the change (Art. X, Sec. 12). The LBC presents the following five proposed changes for consideration by the legislature in 1993.

HOONAH

The City of Hoonah submitted a petition to annex about 18.5 square miles under the legislative review method.

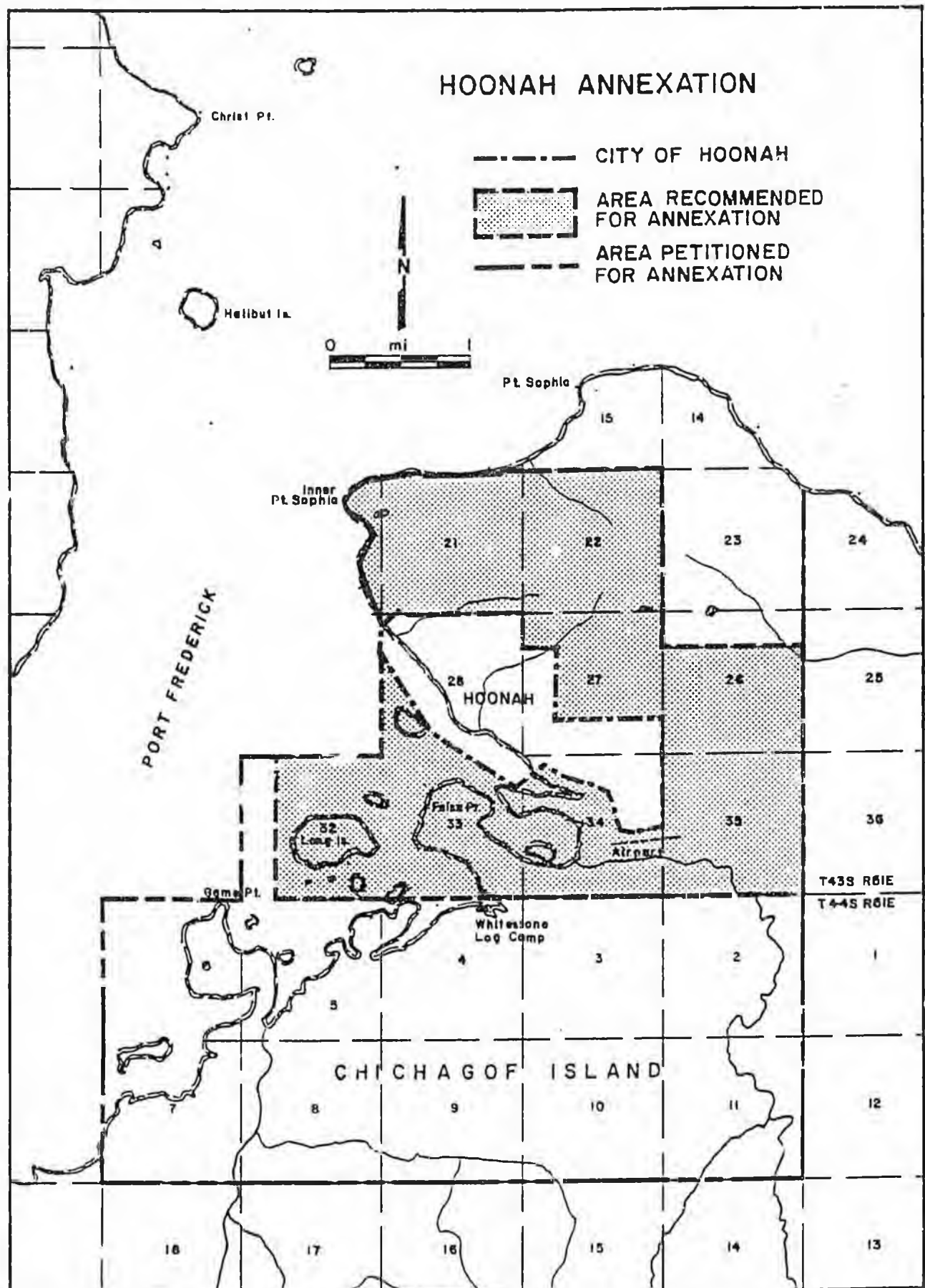
The Commission conducted a public hearing in Hoonah on October 10, 1992. On November 21, the Local Boundary Commission amended and approved the annexation petition of the City of Hoonah. The amendment reduced the territory to be annexed to approximately 7.25 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Hoonah's annexation petition are discussed in detail in the Commission's December 18, 1992, Statement of Decision. That document, comprising 18 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Hoonah:

Beginning at the protracted northeast corner of Section 22, T43S, R61E, Copper River Meridian (CRM);
thence, south to the protracted southeast corner of the northeast one-quarter of the northeast one-quarter of Section 27, T43S, R61E, CRM;
thence, east to the protracted northeast corner of the southeast one-quarter of the northeast one-quarter of Section 26, T43S, R61E, CRM;
thence, south to the protracted southeast corner of Section 35, T43S, R61E, CRM;
thence, west to a point within Port Frederick where the protracted southwest corner of the southeast one-quarter of the southwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, north to a point within Port Frederick where the protracted northwest corner of the northeast one-quarter of the northwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, east to a point within Port Frederick where the protracted northeast corner of Section 32, T43S, R61E, CRM would be;
thence, north to the intersection with the boundary of Alaska Tidelands Survey No. 29, approved by the Director of the Alaska Division of Lands on June 25, 1964 (hereinafter ATS No. 29);
thence, N 34° W to Corner No. 4 of ATS No. 29;
thence, N 51° E to the line of mean-low water;
thence, meandering along the line of mean-low water generally in a northerly and easterly direction to the intersection with extension of the protracted northern boundary of Section 21, T43S, R61E, CRM;
thence, east to the protracted northeast corner of Section 22, T43S, R61E, CRM; the point of beginning;
excluding therefrom, the territory currently within the boundaries of the City of Hoonah; containing 7.25 square miles, more or less, all in the Sitka Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #1

On March 4, 1992, the City of Haines submitted a petition to annex about 4.75 square miles of land under the legislative review method. Following its October 9, 1992, public hearing on the matter, the LBC approved the petition.

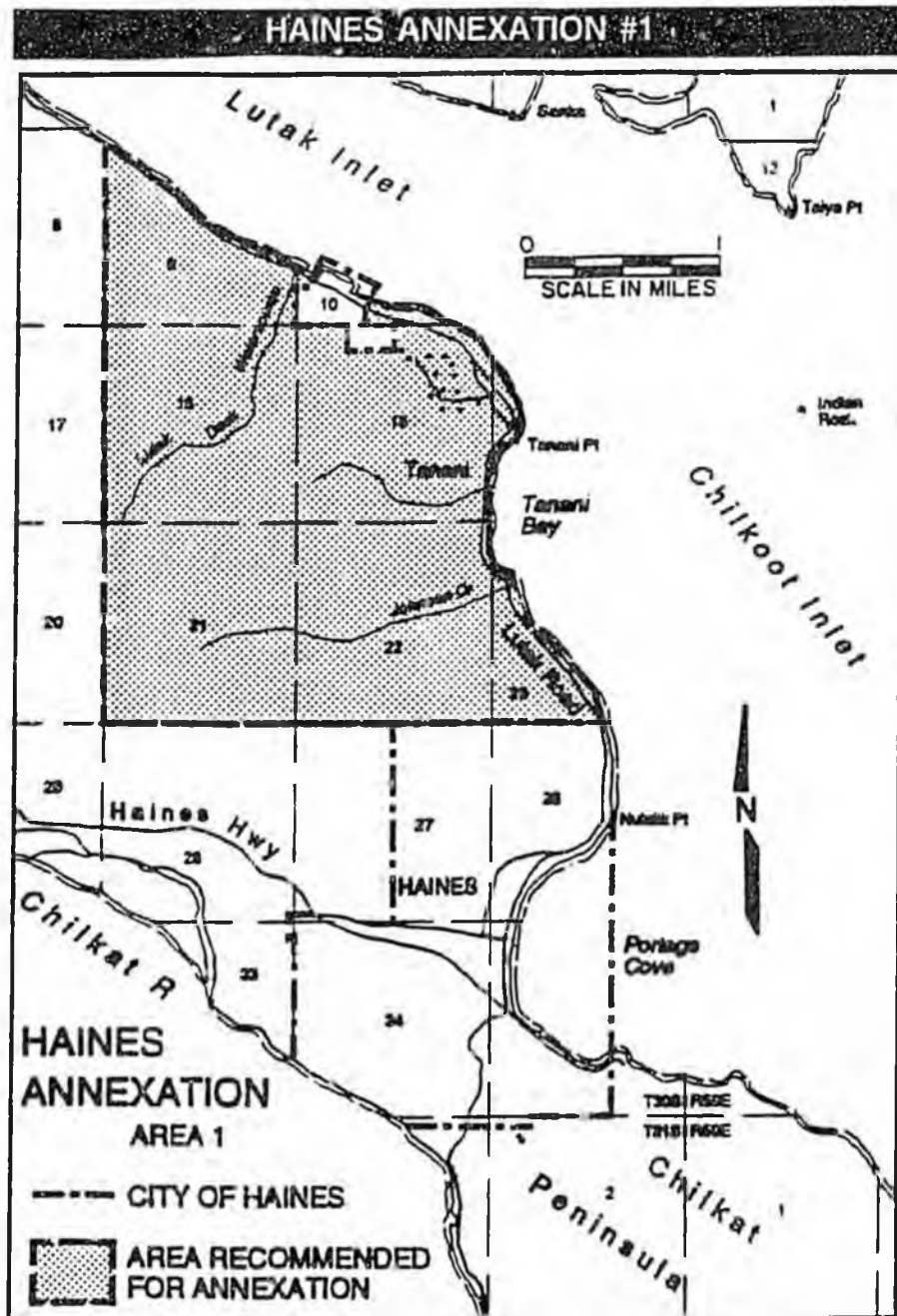
Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Haines' 4.75 square mile annexation petition are included in the Commission's November 5, 1992, Statement of Decision. That document, comprising 17-legal size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500, Fax: 269-4520

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Haines:

All of Sections 16, 21 and 22, and the on-shore portions of Sections 9, 23, 14, 10 and 15, Township 30 South, Range 59 East, Copper River Meridian, Alaska, which are not already within the existing boundaries of the City of Haines.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #2

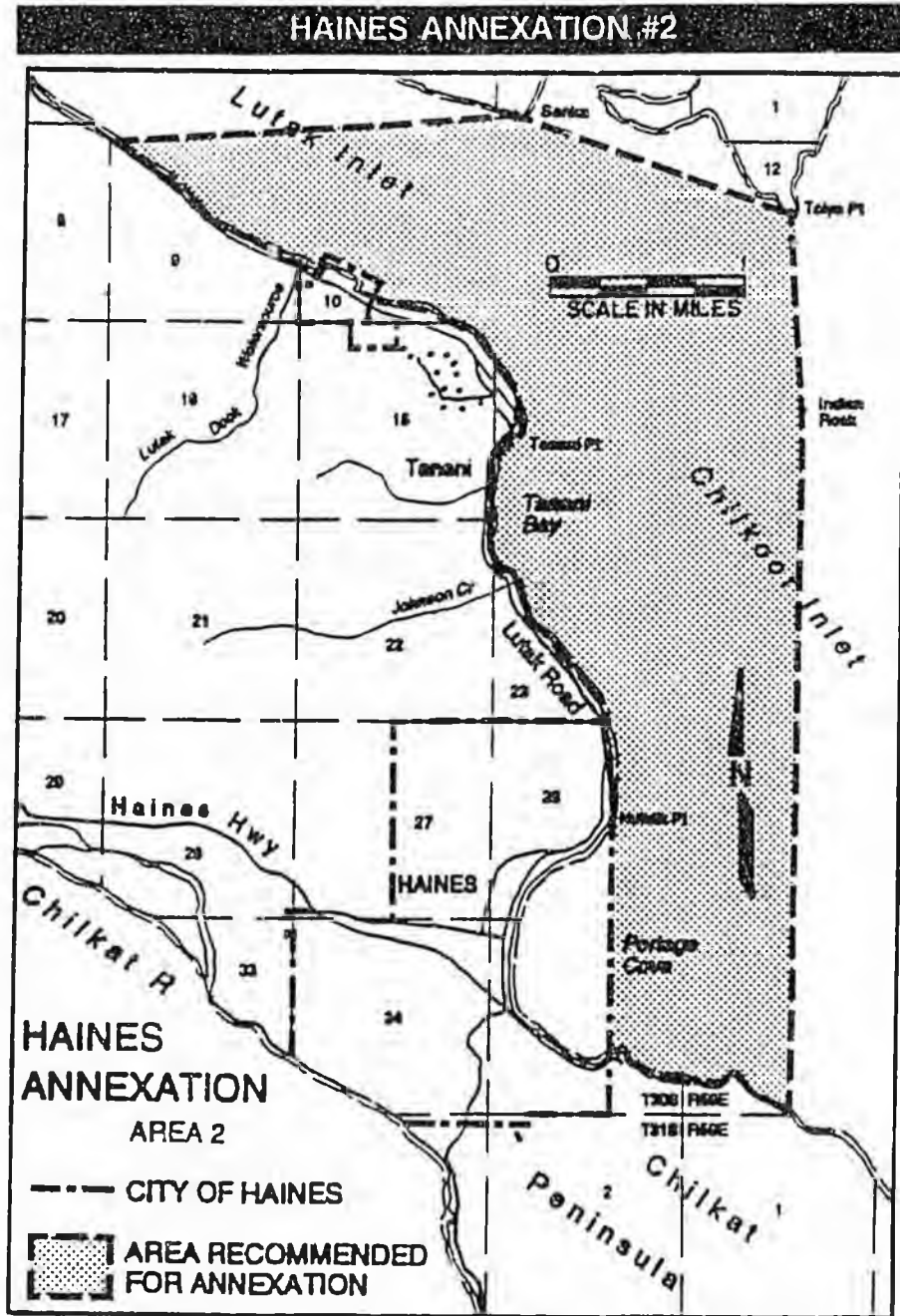
In addition to supporting the City's petition for the annexation of 4.75 square miles addressed on pages 42 and 43 of this report, DCRA recommended the annexation of an additional 7 square miles of adjacent tidelands. The Commission held a hearing on the matter on October 9. Following the hearing, the Commission provided an additional comment period, setting a November 27, 1992 deadline. On December 18, the Commission approved the annexation of the additional 7 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning this annexation proposal are included in the Commission's December 18, 1992, Statement of Decision. That document, comprising 10 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Haines:

Beginning at the point where the western boundary of Section 9, T30S, R59E, Copper River Meridian (CRM) intersects with the line of mean high tide of Lutak Inlet;
thence, N 86° E (approximately), 11,000 feet more or less, across Lutak Inlet to U.S.G.S. triangulation station "Sanka";
thence, S 71° E (approximately), 8,000 feet more or less, to U.S.G.S. triangulation station "Taiya Pt";
thence, S 4° E (approximately) 5,250 feet more or less to the "Indian Rock Light";
thence, South (approximately) 18,750 feet, more or less, to the line of mean high tide of Chilkoot Inlet at the point of intersection of the southern boundary of Section 36, T30S, R59E, CRM, and the line of mean high tide;
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Portage Cove to the intersection with the eastern boundary of the City of Haines (said point also being Haines Township Boundary Corner No. 6);
thence, north along the eastern boundary of the City of Haines to the northern boundary of the City of Haines, a point where the northern boundary of Section 26, T30S, R59E, CRM intersects with the line of mean high tide of Chilkoot Inlet (said point also being Haines Township Boundary Corner No. 4);
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Lutak Inlet to the point of intersection with the eastern edge of the non-contiguous boundary of the City of Haines (encompassing the Lutak port facilities);
thence, northeasterly, northwesterly, and southwesterly along the non-contiguous boundaries of the City of Haines to the point where the western edge of the non-contiguous boundaries of the City of Haines intersects with the line of mean high tide of Lutak Inlet;
thence, meandering northwesterly along the line of mean high tide of Lutak Inlet to the point of intersection with the western boundary of Section 9, T30S, R59E, CRM, the point of beginning; containing 7 square miles, more or less, all in the Haines Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

CORDOVA

The City of Cordova filed a petition for annexation of about 180 square miles inhabited by an estimated 469 residents. On November 21, 1992, the Commission conducted a public hearing in Cordova. On January 4, 1993, the Commission amended the petition to reduce the size of the area proposed for annexation to 68.23 square miles and approved the amended petition.¹¹

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Cordova's annexation petition are discussed in more detail in the Commission's January 8, 1993, Statement of Decision. That document, comprising 22 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission's Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Cordova:

Beginning at the northeast corner of protracted Section 4, T15S, R2W, Copper River Meridian (CRM);
thence, south to the southeast corner of protracted Section 28, T15S, R2W, CRM;
thence, east to the northeast corner of the northwest 1/4 of the northeast 1/4 of protracted Section 33, T15S, R1W, CRM;
thence, south to the southeast corner of the southwest 1/4 of the southeast 1/4 of protracted Section 21, T16S, R1W, CRM;
thence, northwesterly, in a straight line, to the northwest corner of protracted Section 1, T16S, R3W, CRM;
thence, west, along the north boundary of protracted Section 2, T16S, R3W, to a point on the divide along the Heney Range separating the drainage into Orca Inlet from the drainage into the Copper River Delta and the Gulf of Alaska;
thence, southwesterly along said divide to Heney Peak;
thence, westerly in a straight line to the beginning of Hartney Creek;
thence, westerly along the thread of Hartney Creek to the point where it enters Hartney Bay;
thence, northerly and westerly along the line of mean high tide of the north shore of Hartney Bay to Bluff Point;
thence, meandering along the line of mean high tide to the intersection with the east boundary of protracted Section 1, T16S, R4W, CRM;
thence, north to a point in Orca Inlet at the northwest corner of the southwest 1/4 of the southwest 1/4 of protracted Section 31, T15S, R3W, CRM;
thence, northeasterly, in a straight line, to a point in Orca Inlet at the northwest corner of the southeast 1/4 of protracted Section 24, T14S, R3W, CRM;
thence, east to the line of mean high tide on Nelson Bay;
thence, meandering southwesterly along the line of mean high tide of Nelson Bay to the intersection with the west boundary of protracted Section 19, T14S, R2W, CRM;
thence, south, to the southeast corner of protracted Section 36, T14S, R3W, CRM;
thence, east to the northeast corner of protracted Section 4, T15S, R2W, the point of beginning; containing 74.58 square miles, more or less, all in the Cordova Recording District, Third Judicial District, State of Alaska.

Excluding therefrom, the territory currently within the boundaries of the City of Cordova, comprising 6.35 square miles, more or less. The net territory approved for annexation comprises 68.23 square miles, more or less.

A map of the area recommended for annexation is presented on the following page.

¹¹ The decision of the Commission concerning this annexation became final under 19 AAC 10.570(g) on January 8, 1993. Under 19 AAC 10.580, interested parties have until January 28, 1993 to file a request for reconsideration of the decision.