ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672
8516 HOUSE COMMUNITY & REGIONAL AFFAIRS

The Alaska Municipal League supports a compromise to reduce the mandatory exemption for seniors from $150,000 to $75,000, which includes the existing provision that municipalities may opt to grant a larger exemption, but, that any larger optional exemption for seniors would not negatively impact the formulas for local contribution for schools or revenue sharing. The AML would not support any exemption amount higher than $75,000.

AARP

Bringing lifetimes of experience and leadership to serve all generations.

ALASKA STATE LEGISLATIVE COMMITTEE

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Rupert Andrews
9416 Long Run Drive
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March 7, 1995

Kevin Richie, Executive Director
Alaska Municipal League
Juneau, Alaska 99801

Dear Kevin:

Alaska's property tax relief program for seniors and disabled veterans is over 20 years old and was enacted to provide tax relief for people who qualified, from an overloading tax burden caused by accelerating property values and tax rate increases. The public policy expressed was to assist seniors and disabled veterans to remain in Alaska and in their own homes for as long as they chose to remain.

Seniors and disabled veterans are most usually living on fixed incomes and are vulnerable to accelerating tax rates and the real probability of losing their homes because they cannot pay their taxes. Because of this concern the Alaska Legislature enacted circuitbreaker legislation for tax overloaded seniors and disabled veterans with limited earning power and fixed incomes by providing exemption from residential property taxes on the first $150,000 of the appraised evaluation. The exemption mandated by state law, provided for reimbursement to local governments. In practice, however, the reimbursement has been underfunded since its' inception causing the local governments to either absorb the revenue loss and/or shift the tax burden to other property.

Seniors have always supported paying their fair share for services and programs of government. Seniors and disabled veterans want to contribute and share fiscal responsibility with all generations and tax payers within their fiscal ability

AARP proposes an amendment to HB 185 that in our opinion will be fair to the seniors and disabled veterans that have been receiving tax relief and for future seniors and disabled veterans, and for local governments that have been carrying the burden. To completely eliminate the property tax relief would impose considerable hardship on thousands of senior and disabled veteran Alaskans to be suddenly faced with a tax bill that they have inadequate resources to adjust to.

AARP proposes that HB 185 be amended to reflect an amendment to AS 29.45 to reduce the real property exemption of $150,000 of the apprised evaluation, downward 50% to $75,000 of the appraised evaluation. The effect will be to improve the revenue to the local governments while at the same time targeting the lowest income group with the greatest needs. The exemption should not be means tested beyond the present language of AS 29.45.

AARP further proposes that the $150,000 exemption for disabled veterans remain the same. Disabled veterans comprise only a few thousand of Alaskans exempted from the property tax and as public policy veterans, and especially disabled veterans, are awarded extra benefits.

Sincerely,

Rupe Andrews

Rupe Andrews, Coordinator, CCTF, AARP

Senior Citizen Exemption
Estimated Reduction at Predetermined Values
$75,000 and $60,000 Maximum Exemptions

	1994 Senior Citizen Assessed Values $150,000 Maximum	Estimated Taxes For 1994	Indicated Mill Rate	1994 Senior Citizen Assessed Values $75,000 Maximum	Estimated Taxes On $75,000 Exemption	Percent Reduction
Municipality of Anchorage	$494,611,531	$8,465,767	0.01711599	$346,083,887	$5,923,569	30.03%
Fairbanks North Star Borough	$118,304,477	$2,170,879	0.01834993	$82,724,947	$1,517,997	30.07%
City & Borough of Juneau **	$93,672,500	$1,318,909	0.01408	$55,119,300	$7[illegible]080	41.16%
Kenai Peninsula Borough	$99,542,997	$1,266,666	0.01272481	$71,270,276	$906,901	28.40%
Ketchikan Gateway Borough	$45,675,800	$608,006	0.01331134	$32,478,500	$432,332	28.89%
Kodiak Island Borough	$18,275,450	$151,795	0.00830595	$12,343,150	$102,522	32.46%
Matanuska-Susitna Borough	$116,567,787	$2,246,435	0.01927149	$83,810,000	$1,615,144	28.10%
Totals	$986,650,542	$16,228,457	0.01644803	$683,830,060	$11,274,544	30.69%

** Juneau figures for exempt maximums are based upon 1995 values as '94 are unavailable

saved

2,542,198
652,882
542,829
359,765
175,674
50,273
631,291
$4,954,912

4 mill for schools increase

148,527,644 X .004 = 594,108.
35,599,530 X .004 142,396
38,553,200 X .004 154,212
28,272,321 X .004 113,089
13,197,300 X " 52,789
5,932,300 X " 23,729
32,753,787 X " 131,015
302,840,482 X .004 = (1,211,362)

$11.7 million - 5%

These amounts represent 92% total statewide

RECEIVED
MAR 10 1995

CITY OF PETERSBURG
P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4511
TELECOPIER (907) 772-3759

March 7, 1995

Representative Ivan Ivan
Room 503
State Capitol
Juneau, Alaska 99801-1182

Re: House Bill 185
Municipal Property Tax Exemptions

Dear Representative Ivan:

The City of Petersburg has received a copy of HB 185 relating to an exemption from municipal property taxes for certain primary residences.

The city has consistently supported legislation in the past to require the state to fully reimburse municipalities for revenues lost because of exemptions or allow municipal governments to, by local option, grant property tax relief to senior citizens and disabled veterans. Since 1985, the city has lost $762,373 in property tax revenue because the state has failed to fully fund its mandated exemption.

The City Council of the City of Petersburg, at their regular meeting of March 6, 1995, voted in support of House Bill 185 and encourages the legislature to act affirmatively on this important piece of legislation this session.

Sincerely,

Dave Carlson, Mayor
City of Petersburg

cc: Alaska State House of Representatives
Alaska State Senate

MILITARY ORDER OF THE PURPLE HEART

CHARTERED BY CONGRESS

ALASKA CHAPTER
1530 BEAVER PL.
ANCHORAGE, AK 99504
(907) 333-8760 / 337-1060
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FACSIMILE TRANSMITTAL SHEET

TO: Representative Ivan Ivan
State Capitol
Juneau, AK 99801-1182
Tel: 907-465-4942
FAX: 907-465-4589

FROM: Brad Bradley, Commander and
National Chief of Staff for Alaska
Military Order of the Purple Heart of the U.S.A.
1530 Beaver Place
Anchorage, AK 99504-2517
TEL: 907-333-8760/FAX: 907-333-7577

DATE: March 8, 1995

CC: Representative Ed Willis, State Capitol
Juneau, AK 99801-1182
TEL: 907-465-2199/FAX: 907-465-4587

MESSAGE: Ref HB 185, Exemption from Municipal Property Taxes for Certain Primary Residences...

Due to limited time to respond before your hearing is scheduled, I have not been able to contact many 65-year old or older senior citizens and 50-percent combat-connected disabled veterans. However, I do not believe I need more time, because I have worked with these two categories of people for many years.

The requirement should be 50 percent disability for veterans if the veteran's disability was as a result of wounds inflicted by the enemy in combat overseas and 70 percent disability for veterans whose disability while in military service was a result of something like diabetes, high blood pressure, heart, cancer or some other ailment that they might have had if they never had been in service or had served only six months stateside before discharge unless seriously disabled and

NUMBER OF PAGES (INCLUDING TRANSMITTAL SHEET): 4

medically discharged. There is a distinct difference in disabled veterans. Some made bigger sacrifices and are more deserving. Seventy percent is what the Veterans Administration recommended when I first drafted the bills for disabled veterans property tax exemption and the disabled veteran's license plate. The property tax exemption got changed through the legislative process to 50 percent disability service-connected. However, the license plate still requires 70 percent disability. Unfortunately, all legislators do not have full information on some bills, and the sponsor of a bill who does have the information may have to get whatever he can at the time, and hope to correct any errors in a subsequent legislature.

Neither seniors nor disabled veterans want the property tax exemption to be based on financial need, although that truly is the case in most instances. It would then be welfare. That is the reason seniors did not want the longevity bonus to be based on financial need, although it was a financial need for many. Many would not receive it, even if they needed it, if it was considered welfare. If you satisfy the requirement you should receive it. Why should someone that had been on the dole all their life get the same benefit as someone who had worked most of their life, but in their later years, because of loss of health, could no longer do so. The financial-need requirement destroys the dignity of the more deserving senior or disabled veteran.

I canvassed the mayor and six of the Municipality of Anchorage Assembly Persons two years ago, and they all said they would continue the Property Tax Exemption Program for the qualified residents of Anchorage whether the State funded the program or not, but some of the other municipalities/boroughs could not or would not. This would be discriminatory, and there would probably be a deluge of qualified persons moving to Anchorage to get the benefit, which would be an unnecessary burden on Anchorage taxpayers. This would not be a fair solution and would eventually kill the program altogether. I do not know what the financial status is of these municipalities/boroughs to date. I believe most are less capable financially today.

I know quite a few qualified seniors and disabled veterans who have a barely adequate primary abode, a moderately adequate one or a very nice one, but if some of them, regardless of the appraised value of their home, had to pay their property taxes, their homes would eventually be foreclosed on, because of inability to pay back taxes. Then, they would have to go to a Pioneer Home, of which most have a waiting list as long as your arm. The State would have to pay for a place for them to stay and their care, which is welfare. This would cost the State far more than if they stayed in their own homes. It would also destroy their dignity, and to say the least, shorten the last few years they have on this earth. Even if they eventually did get

in a Pioneer Home, it still would cost the State more than if they stayed in whatever kind of home they originally had, which they would prefer.

Although my political philosophy does not usually accommodate unfunded mandates, I believe, in this instance, we should keep the state mandate and limit the amount to be exempted for a home, if we must, which was done several years ago. However, I know quite a few seniors and disabled veterans who have worked as much and long as they were able to, and some had even paid for their homes, but have only their social security or very little savings on which to live. They did not have retirements from companies for which they had worked or from their own businesses. They either got in bad health or were disabled while serving their country in the military service. Most of these citizens did not work for companies that provide adequate retirements and health benefits, or the government like legislators and other employees of the State and Federal governments.

Keep the mandate on municipalities and fund as much as you can. It is still the humane, compassionate, and least costly thing to do until some day we re-establish a State Income Tax or receive more revenue from some other sources to supplement the funding for our elderly and disabled citizens.

I believe I know of what I speak, because I have been working with both seniors and veterans for over 20 years. I am a member of 12 veterans organizations in Anchorage, and have been an officer in most at some time and even a commander in several. Additionally, I arranged for and chaired the first Military and Veterans Affairs Committee in the Senate 15 years ago, and during the committees existence and my eight years in the Senate, I drafted legislation for 14 state veterans benefits, most of which became law. We lost our death gratuity (burial allowance) and Veterans Affairs Division during the last legislature. We should do our best to get both back. It cost about four hundred dollars more to bury someone in Alaska than it does in Washington State.

I organized the Coalition of Alaska Veterans Political Action Committee 18 years ago, the Disabled American Veterans (DAV) organization in Alaska 17 years ago and the Military Order of the Purple Heart of the U.S.A. (MOPH) three years ago. The DAV had only 10 members of 1300 in Alaska that had been disabled in combat with wounds inflicted by the enemy and who had received a Purple Heart Medal. During the last survey of the MOPH, 70 percent of its over 200 members were 50 to 100 percent disabled. Fifty-two were severely disabled due to wounds from enemy fire. Many of our 100 percent disabled members are ambulatory, but four

are completely wheelchair-bound. None of these can hold a decent job or adequately support themselves and their families. Some of those men may have been able to be a legislator or maybe even President of our Nation, but because they served their country, they are handicapped and can never fullfill their original full potential. This is indeed a shame. If a disabled veteran receives 100 percent of his Private, Corporal or Sergeant's pay, he cannot live on it. However, a General Officer, whether disabled or not, can live quite well on his retirement. It should not be by rank, but a living wage. Who do you think took more risks and did more on the frontlines in combat to win the battles? I believe you know the answer. Unfortunately, I do not have the power to change this. I wish I did, but I can do what I can. That is why I am passing my knowledge on to you in hopes you will see justice done. I also have given a large part of my time since retiring from the military service trying to help veterans, especially the disabled and more deserving. I have done much the same for senior citizens.

In regard to the senior citizens, I am currently Chairman of the Board of Trustees of the Older Persons Action Group (OPAG) Endowment Foundation and a board member of the Chugiak Senior Center Foundation. Additionally, I have been a board member of the regular OPAG Board, the OPAG Advisory Committee, Association of American Retired Persons (AARP) Board, and I have been an active member of both OPAG and AARP for over 20 years.

We have less veterans and less older individuals as legislators today than during my eight years in the Senate. Also, the cold and hot war is over, but I hope you will not forget those who served. "Freedom is not Free." Many citizens, young and old, had to serve. Do not forget our deserving elderly and veterans, especially those who made the greatest sacrifice, both seniors, who for one reason or another could not serve in the military, but wanted to, and the veterans who did.

I hope I have been of some help to your committee, but do not stop there. Make sure the Senate gets the benefit of this information also.

FY 95 Cost to Individual Municipalities of Underfunding of the Senior Citizen/Disabled Veteran Property Tax Exemption Program

Municipality	Cost of FY 95 Underfunding
Municipality of Anchorage	$7,878,617
Bristol Bay Borough	5,682
City of Cordova	67,613
City of Craig	9,301
City of Dillingham	13,585
City of Eagle	304
Fairbanks North Star Borough	2,021,295
Haines Borough	78,097
City and Borough of Juneau	1,144,542
Kenai Peninsula Borough	1,179,388
Ketchikan Gateway Borough	566,112
Kodiak Island Borough	141,335
Matanuska-Susitna Borough	2,091,645
City of Nenana	9,166
City of Nome	46,162
North Slope Borough	24,698
City of Pelican	1,602
City of Petersburg	137,169
City and Borough of Sitka	145,902
City of Skagway	22,784
City of Unalaska	2,639
Valdez	58,921
Whittier	372
Wrangell	71,031
City and Borough of Yakutat	8,302
Total Shortfall in FY 95	$15,726,264

Source: Department of Community and Regional Affairs.

HB345 Senior Citizen/Disabled Veteran Property Tax Exemption Program Summary

Municipality	Homeowner- S.C/DAV Program									Farm-Use Program				
	Senior Citizen	Senior Citizens	Senior Citizens	DAV	Disabled Veterans	Disabled Veteran	SC/DAV	SC/DAV	SC/DAV	Pro Rated	No. of	Total	Full & True	Farm-Use	Total Taxes
	# Applicants	Exempt Value	Taxes Exempt	# Applicant	Exempt Value	Taxes Exempt	Total App	Total Value	Total Taxes	Reimbursement	Applicants	Acreage	Assessed Value	Value	Deferred
Municipality of Anchorage	4,452	$428,693,856	$7,336,333	60	$65,689,176	$1,123,329	5,452	$494,382,831	$8,461,662.10	$983,045.88	3	107.02	$1,350,250	$961,500	$5,780
Bristol Bay Borough	13	$871,800	$6,103	0	$0	$0	13	$871,800	$6,102.60	$420.50	0	0.00	$0	$0	$0
Fairbanks North Star Borough	1,455	$136,464,927	$1,654,982	144	$11,830,550	$215,697	1,600	$148,295,477	$2,170,678.53	$149,593.72	23	3,143.22	$4,308,092	$3,857,384	$65,670
Haines Borough	113	$8,030,575	$82,227	2	$200,000	$1,650	115	$8,230,575	$83,876.87	$5,779.49	0	0.00	$0	$0	$0
City & Borough of Juneau	745	$34,073,603	$1,182,697	22	$3,291,636	$46,246	767	$37,365,200	$1,219,242.94	$84,706.27	0	0.00	$0	$0	$0
Kenai Peninsula Borough	1,201	$95,728,027	$1,216,610	54	$3,814,970	$48,057	1,255	$99,542,997	$1,266,666.50	$87,278.91	12	1,452.03	$2,336,300	$841,100	$17,499
Ketchikan Gateway Borough	482	$15,284,200	$653,617	3	$391,650	$4,289	485	$15,675,850	$666,006.11	$41,694.31	0	0.00	$0	$0	$0
Kodiak Island Borough	180	$17,558,053	$146,692	6	$717,400	$5,103	186	$18,275,453	$151,794.35	$10,459.31	4	320.89	$1,910,600	$691,800	$8,452
Matanuska-Susitna Borough	1,323	$104,825,287	$2,018,512	143	$11,742,900	$226,623	1,466	$116,567,787	$2,245,434.71	$154,789.27	10	10,984.59	$31,304,700	$14,291,300	$269,065
North Slope Borough	28	$1,465,340	$26,525	0	$0	$0	28	$1,465,340	$26,525.15	$1,827.70	0	0.00	$0	$0	$0
City & Borough of Sitka	240	$25,881,570	$135,689	2	$150,000	$1,000	242	$26,031,570	$136,689.42	$10,797.26	0	0.00	$0	$0	$0
City & Borough of Yakutat	17	$930,750	$6,917	0	$0	$0	17	$930,750	$6,916.75	$614.10	0	0.00	$0	$0	$0
Cordova	66	$5,976,143	$72,618	0	$0	$0	66	$5,976,143	$72,618.05	$5,003.57	0	0.00	$0	$0	$0
Craig	20	$1,682,630	$8,377	2	$102,612	$612	22	$1,694,242	$8,989.05	$688.29	0	0.00	$0	$0	$0
Dillingham	21	$2,431,200	$14,591	0	$0	$0	21	$2,431,200	$14,590.80	$1,005.37	0	0.00	$0	$0	$0
Eagle	6	$326,650	$327	0	$0	$0	6	$326,650	$326.65	$22.51	0	0.00	$0	$0	$0
Nenana	21	$772,761	$9,617	1	$28,648	$327	22	$800,209	$9,944.03	$678.50	0	0.00	$0	$0	$0
Nome	73	$4,537,003	$48,450	1	$104,900	$1,128	74	$4,641,503	$49,578.17	$3,416.15	0	0.00	$0	$0	$0
Pelican	5	$286,750	$1,721	0	$0	$0	5	$286,750	$1,720.50	$118.55	0	0.00	$0	$0	$0
Petersburg	134	$14,355,747	$143,557	3	$376,250	$3,765	137	$14,731,997	$147,319.97	$10,153.00	0	0.00	$0	$0	$0
Seagway	39	$3,051,276	$33,358	1	$127,300	$1,115	40	$3,178,576	$34,470.28	$1,686.12	0	0.00	$0	$0	$0
Unalaska	3	$240,640	$2,835	0	$0	$0	3	$240,640	$2,834.73	$195.33	0	0.00	$0	$0	$0
Valdez	41	$2,929,493	$30,590	4	$254,550	$4,691	45	$3,184,043	$35,281.60	$2,430.54	0	0.00	$0	$0	$0
Whittier	6	$376,885	$399	0	$0	$0	6	$376,885	$399.43	$27.52	0	0.00	$0	$0	$0
Wrangell	110	$8,051,950	$135,844	1	$44,300	$445	111	$8,096,250	$136,287.20	$5,236.62	0	0.00	$0	$0	$0
Totals	11,204	865,449,705	15,205,286	993	98,852,656	1,684,768	12,197	$1,064,302,361	$16,890,054.09	$1,163,300.00	143	16,987.76	$31,710,742	20,641,884	367,386
								FY 95 Funding	$1,163,800.00						
								Shortage	($15,726,254.09)						
							Pro Rata Percent		0.06890						

Senior Citizen/Disabled Veteran Property Tax Exemption

The municipalities of the Alaska Municipal League support elimination of the unfunded mandate imposed on municipalities by AS 29.45.030, which establishes the Senior Citizen/Disabled Veteran Property Tax Exemption Program. The League urges the Alaska State Legislature to introduce and adopt legislation that would allow municipal governments to by, local option, grant property tax relief to senior citizens and disabled veterans by exempting or deferring taxes on all or part of the value of eligible property.

What is an Unfunded Mandate?

An unfunded mandate is the practice of a higher level of government (federal/state) imposing costly programs or requirements on a lower level of government (state/municipalities) without proper funding. This takes the taxing and decision-making rights away from local governments who are forced to pay for the mandates.

What is the Senior Citizen/Disabled Veteran Property Tax Exemption?

AS 29.45.030(e) requires municipalities to exempt from local property tax up to an assessed value of $150,000 of the primary residence of:

(1) a resident 65 years or older;
(2) a disabled veteran; or
(3) a resident at least 60 years old who is the widow or widower of a person qualified

A complementary program, which provides refunds directly to senior citizen renters to compensate for property tax included in their rent charges, was established at the same time.

Why does the Alaska Municipal League want to change the program?

When the program was enacted by the Alaska Legislature in 1973, it included a provision that the state would reimburse municipalities for tax revenues lost because of the exemption. However, the state has not provided reasonable funding for the program. The League believes the level of government responsible for paying for a program should have the authority to make decisions about that program.

993 Effort to Solve the Problem

In 1993, legislation requested by the Alaska Municipal League was introduced that would have repealed the state-mandated tax exemption for senior citizens and disabled veterans and allowed local governments to develop their own tax relief programs for these groups. The bill, HB 66, was passed by both houses of the Legislature but fell victim to a last-minute reconsideration.

The Alaska Municipal League urges the Alaska State Legislature to eliminate the unfunded mandate of the Senior Citizen/Disabled Veteran Property Tax Exemption and allow local governments to create their own programs of tax relief for these groups.

What are the options?

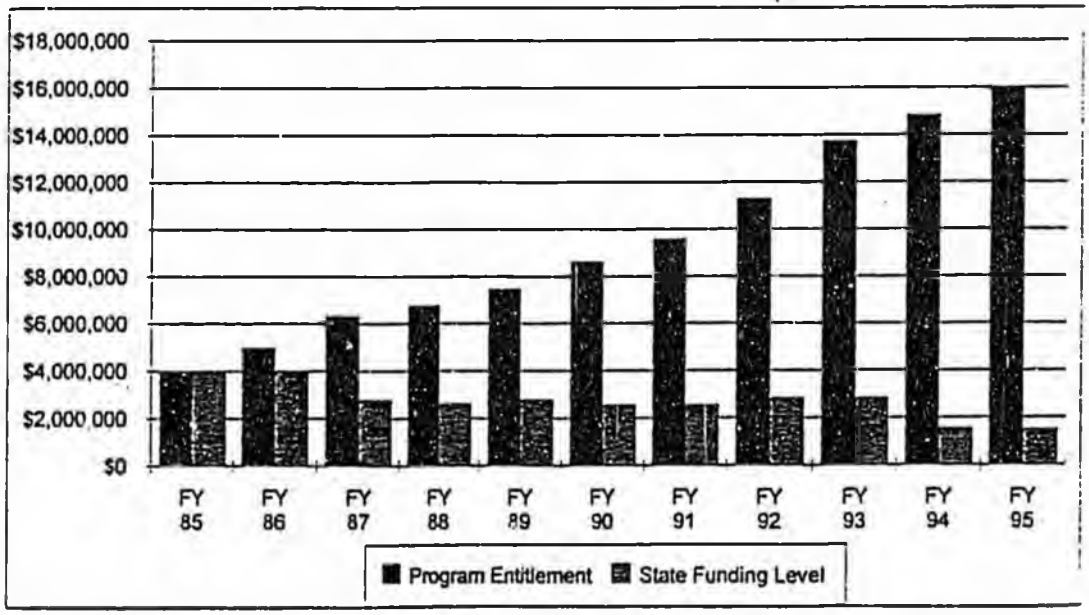
Each community should have the option of structuring a program that will make the best use of its limited resources. Such a program could:

1) Continue a program similar to the current state mandated program
2) Reduce the property tax exemption level on seniors' homes (currently at $150,000)
3) Base the exemption on need
4) "Allow for a deferral of taxes to enable a senior citizen or disabled veteran to stay in his or her home"

How much has this program cost municipalities?

As witnessed by the following charts, eligibility for the program and its cost has continued to grow, but state funding has been drastically cut back.

Funding History - Senior Citizens/Disabled Veterans Property Tax Exemption Program



D. LOCAL TAXES

1. Tax-Levying Authority: **The League supports broader municipal authority to consider alternatives to property taxes. The League opposes any action that would diminish the existing statutory authority of local governments to tax. The League opposes any efforts by the state that would reduce local tax bases or adversely affect the marketability of municipal bonds.**

2. State-Mandated Exemptions:

a. **The League opposes the imposition of state-mandated exemptions of certain classes of property, individuals, organizations, or commodities from the application of taxes unless full compensation is made for revenues lost due to these exemptions. If the reimbursements for state-mandated exemptions are not fully funded, currently or in the future, the exemptions should be repealed or prorated.**

In implementing state policies, the legislature has created required tax exemptions from local property taxes for certain classes of property, individuals, organizations, or commodities. As it is a state policy or program that requires these exemptions, the burden of the exemptions should fall on the state, and not the local government. If the state is going to establish such exemptions, it should fully reimburse the municipalities for revenues lost because of the exemptions. If the state is not going to fully fund such losses, the exemptions should be repealed or prorated or suspended.

b. **The League supports elimination or proration of the Senior Citizens/Disabled Veterans and agricultural lands property tax exemptions mandated by AS 29.45. In place of these unfunded mandates, the League supports enactment of legislation that would allow municipal governments to, by local option, grant property tax relief to senior citizens and disabled veterans. Legislation establishing a local option property tax relief program should allow for exemption or deferral from taxes on all or part of the value of eligible property and permit exemptions to be based on economic factors. If the programs are not eliminated, the League supports legislation that would allow municipalities to prorate the tax exemptions based on the level of funding provided by the state.** (am 11/94)

The Senior Citizens/Disabled Veterans Property Tax Exemption Program and the Farm Use Assessment Program have been underfunded or zero-funded in recent years, leaving local governments responsible for an increasing share of the total cost of the state-mandated programs. This will cost local governments and their taxpayers over $16 million in uncollected taxes in FY 95. Local taxpayers should not have to pay the costs of these unfunded mandates since they did not vote to provide the exemptions. Funding for the tax exemption program for FY 95 is $1.5 million, less than 8 percent of the total obligation of local governments for the mandated exemption of property taxes on the first $150,000 value of property owned by senior citizens and disabled veterans.

obligation of local governments for the mandated exemption of property taxes on the first $150,000 value of property owned by senior citizens and disabled veterans.

Since local governments are being held responsible for the costs of property tax relief for senior citizens and disabled veterans, their citizens should be allowed to determine the nature and level of tax relief granted to these groups. With a local option program, local officials could determine the property value to be exempted and, if they wished, provide assistance to only those senior citizens and disabled veterans who demonstrated need.

If the mandate is not lifted, then legislation should be passed that would allow local governments to prorate the amount of tax exemption granted based on the level of funding appropriated by the legislature and approved by the Governor. For instance, if only 25 percent of the cost of the program were appropriated, local governments would have to grant tax exemptions equal to only 25 percent of the tax bill owed by the affected groups. This would give senior citizens, disabled veterans, and agricultural land owners a tax exemption based on the state's commitment to the program and remove the ever-growing burden the current program has placed on local governments and their tax-paying citizens.

3. <u>Personal Property Taxation</u>: **The League supports legislation which would allow municipalities to classify as to type and exempt or partially exempt personal property from taxation.** (11/94)

This legislation would replace the present haphazard exemption program presently allowed by the State.

4. <u>Abandoned Motor Vehicle Fund</u>: **The League supports legislation that would fund the abandoned Motor Vehicle Fund through a registration fee increase for all vehicles registered in the State of Alaska and the disbursement of those funds to communities and municipalities for the disposal of abandoned motor vehicles.**

AS 28.11.110 of the Motor Vehicle Code authorizes an "abandoned motor vehicle fund," with disbursement of funds "to municipalities upon presentation of a voucher for payment of services rendered." However, the fund has not been financed as intended by previous legislatures and as provided for in the statute.

The number of wrecked, junk, and abandoned automobiles has increased dramatically in the last few years, and the cost to local government to dispose of them properly, as required by the U.S. Environmental Protection Agency, has risen sharply.

Increasing the motor vehicle registration tax would provide revenue so the legislature could fund an abandoned motor vehicle fund to help municipalities.

Resolution of the Alaska Municipal League

Resolution No. 95-2

A RESOLUTION OPPOSING UNFUNDED STATE MANDATES AND URGING PASSAGE OF LEGISLATION REQUIRING THE STATE OF ALASKA TO REIMBURSE MUNICIPALITIES FOR THE COST OF ANY NEW STATE-MANDATED PROGRAM

WHEREAS, "the Alaska Municipal League urges passage of legislation that would require a government agency unilaterally transferring responsibility for a program to a municipality or imposing regulations on a municipality to reimburse the municipality for the costs of the transferred responsibility or regulations" (Alaska Municipal League Policy Statement 1995, Part 1 Taxation and Finance, F.2 Reimbursement for Responsibilities Transferred from State); and

WHEREAS, state aid to municipalities in the form of Municipal Assistance and State Revenue Sharing has been reduced by over 55 percent since FY 86, while during the same period the overall state general fund budget has been reduced by only 10 percent; and

WHEREAS, along with the reduction in state financial assistance, there have been increases in state-mandated programs that take the form of increased costs, new programs, and funding shortfalls for existing programs that are costly for municipalities to administer and implement; and

WHEREAS, legislation affecting municipalities is considered and passed by the Alaska State Legislature without the benefit of knowing its fiscal impact on local governments; and

WHEREAS, these mandated programs, funding shortfalls, and shifts in responsibilities have required municipalities to increase local taxes and reduce services in order to balance their budgets and, at the same time, the Alaska Legislature has ignored deficit spending while boasting that the state has no income or sales taxes and that operating budgets have been reduced; and

WHEREAS, costly state-mandated programs provide a significant additional disincentive for communities to incorporate; and

WHEREAS, the National Conference of State Legislatures in 1987 recommended that state legislatures consider relaxing or eliminating costly requirements on local governments or assuming the cost of complying with the requirements:

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation requiring the state to reimburse municipalities for the costs of any new state-mandated programs or regulations that increase the costs of local government operations.

HB

192

CS FOR HOUSE BILL NO. 192(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Ivan

A BILL

FOR AN ACT ENTITLED

"An Act relating to housing programs of the Alaska Housing Finance Corporation, to the corporation's supplemental housing development grants to regional housing authorities, and to housing programs of regional housing authorities, and permitting regional housing authorities to make, originate, and service loans for the purchase and development of residential housing."

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

* Section 1. AS 18.55.997(a) is amended to read:

(a) In addition to the powers authorized to a regional housing authority under AS 18.55.996, a regional housing authority may, in accordance with procedures and policies adopted and approved by the Alaska Housing Finance Corporation, make, originate, and service loans for the purchase or development of residential housing [IN RURAL AREAS OF THE STATE, OTHER THAN IN AN AREA WHERE THE CORPORATION HAS A LOAN OFFICE]. A loan shall be secured by collateral in

an amount acceptable to the corporation. The rate of interest on a loan authorized by this **subsection**

(1) in a rural area of the state [SECTION] may not exceed the interest rate on a loan originated or purchased under AS 18.56.400 - 18.56.600**; and**

(2) outside a rural area of the state may not exceed the rate established by the corporation under the provisions of AS 18.56 that are appropriate for the mortgage loan.

* Sec. 2. AS 18.55.998(a) is amended to read:

(a) There is created in the Alaska Housing Finance Corporation a supplemental housing development grant fund. Using corporate earnings or other available funds, the corporation shall make grants to regional housing authorities established under AS 18.55.996 for

(1) the cost of [ON-SITE] sewer and water facilities, **whether on-site or off-site;**

(2) road construction to project sites;

(3) [,] energy efficient design features in homes; [,] and

(4) extension of electrical distribution facilities to individual residences.

* Sec. 3. AS 18.55.998(b) is amended to read:

(b) A grant **made under this section**

(1) may be made only for residential housing for which federal loan or grant approval has been obtained from the United States Department of Housing and Urban Development and **that** [WHICH] will be made available to the public on a nondiscriminatory basis;

(2) [. A GRANT] may not be used to retire or repay obligations or debts of the grant recipient;

(3) [. A GRANT] may only be for the difference between the maximum amount available under federal law or regulation for construction of the residential housing for which the grant is made and the actual costs of the construction; **and**

(4) [. A GRANT] may not exceed **30** [20] percent of the United States Department of Housing and Urban Development total development cost per unit in effect at the time the grant is made.

* Sec. 4. AS 18.55.998(c) is amended to read:

(c) A grant made by the corporation to a regional housing authority under this section

(1) [GRANT MONEY] may be used by the regional housing authority only for the purpose and the permissible use for which the grant was made;

(2) may not [PURPOSES SPECIFIED IN (a) OF THIS SECTION. NO PART OF THE GRANT MONEY MAY] be used for administrative or other costs of a regional housing authority, whether the costs are directly associated with the construction or general costs of the authority.

* Sec. 5. AS 18.55.998(d) is amended to read:

(d) The Alaska Housing Finance Corporation shall

(1) adopt regulations to carry out the purposes of this section; the [. THE] provisions of AS 18.56.088(a) and (b) apply to regulations adopted under this section; and

(2) establish a priority system for the allocation of money for grants to pay for off-site sewer and water facility improvements authorized by AS 18.55.998(a)(1).

* Sec. 6. AS 18.56.440 is amended to read:

Sec. 18.56.440 LIMITATIONS ON USE OF HOUSING ASSISTANCE LOAN FUND. The corporation may not use the money in the housing assistance loan fund to

(1) originate a direct loan or purchase or participate in the purchase of a small community housing mortgage loan that exceeds the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount or loan-to-value ratio;

(2) originate a direct loan or purchase or participate in the purchase of a loan made for building materials for small community housing

(A) that exceeds $45,000 or exceeds

(i) 80 percent of the appraised value of the work completed on the small community housing for which the loan is made

if the small community housing is pledged as collateral for the loan; or

(ii) 90 percent of the value of other property that is pledged as security for the loan and that is satisfactory to the corporation as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the corporation, at the expense of the borrower; and

(C) unless the period of time allowed for repayment of the loan is equal to or less than 15 years;

(3) originate direct loans or purchase or participate in the purchase of a small community housing mortgage loan that is secured by real property the marketable title to which is shown under AS 18.56.480(b)(2) if the total amount of outstanding small community housing mortgage loans held by the corporation exceeds 10 times the amount of money in the restricted title loss reserve account established by AS 18.56.490;

(4) originate a direct loan for small community housing or purchase or participate in the purchase of a small community housing mortgage loan, other than a loan for the repair, remodeling, rehabilitation, or expansion of an existing owner-occupied residence, if the borrower has an outstanding housing loan made under a state loan program, other than a loan for [NONOWNER-OCCUPIED] housing under AS 18.56.580 or <u>for nonowner occupied housing</u> under former AS 44.47.520, that bears interest at a rate that was less than the prevailing market interest rate for similar housing loans at the time the loan was made;

(5) originate a direct mortgage loan or purchase or participate in the purchase of a mortgage loan for rental housing unless the borrower agrees not to discriminate against tenants or prospective tenants because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, national origin, or status as a student;

(6) originate, purchase, or participate in a loan to a person who has a past due child support obligation established by court order or by the child support enforcement division under AS 25.27.160 - 25.27.220 at the time of application.

* Sec. 7. AS 18.56.580(a) is amended to read:

(a) In addition to the powers authorized by AS 18.56.400, the corporation may adopt regulations under AS 18.56.088 allowing the use of money in the housing assistance loan fund to make loans for the purchase or development of **rental** [NONOWNER OCCUPIED] housing in small communities.

* Sec. 8. AS 18.56.580(c) is amended to read:

(c) The principal amount of loans made for **rental** [NONOWNER OCCUPIED] housing under this section may not exceed 20 percent of the total principal amount of loans made for small community housing under AS 18.56.400 - 18.56.600.

* Sec. 9. AS 18.56.580(d) is amended to read:

(d) In this section,

(1) "development" means the construction of a new residence or the repair, remodeling, rehabilitation, or expansion of an existing residence;

(2) **"rental** ["NONOWNER OCCUPIED] housing" means a single-family residence **that is not occupied by the owner** or a multi-family residence having up to **16** [EIGHT] dwelling units**, one of which may be** [AND THAT IS NOT] occupied by the owner; the corporation may modify this definition if it determines that there is a special need for **rental** [NONOWNER OCCUPIED] housing **in small communities** and that a change in the definition is necessary to enable the corporation to meet that need.

* Sec. 10. AS 18.56.600 is amended to read:

Sec. 18.56.600. DEFINITIONS. In AS 18.56.400 - 18.56.600,

(1) "housing"

(A) means owner-occupied **housing having four or fewer dwelling units** [, SINGLE-FAMILY HOUSING AND OWNER-OCCUPIED DUPLEXES] in which not more than 25 percent of the gross floor area is or will be devoted to commercial use;

(B) does not include a multi-family residence that constitutes housing for which a loan is made under the rental housing loan program of AS 18.56.580 when one of the dwelling units in the multi-family

residence is occupied by the residence owner;

(2) "small community" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks, or with a population of 1,400 or less that is connected by road or rail to Anchorage or Fairbanks; in this paragraph, "connected by road" does not include a connection by the Alaska marine highway system.

ALASKA STATE LEGISLATURE
REPRESENTATIVE RICHARD FOSTER

Session: STATE CAPITOL, ROOM 410, JUNEAU, ALASKA 99811 • 907-465-3789 • FAX 907-465-3242
Interim: PO BOX 1630, NOME, ALASKA 99762 • 907-443-5036 • FAX 907-443-2162

COMMITTEE SUBSTITUTE FOR HOUSE BILL 192

The concern has arisen that, as worded, House Bill 192, Section 1, could create unfair competition for urban banks selling mortgages guaranteed by the Alaska Housing Finance Corporation (AHFC). More specifically, the concern was with the Section 1 language "[t]he rate of interest on a loan authorized by this subsection [SECTION] may not exceed the interest rate on a loan originated or purchased under AS 18.56.400 - 18.56.600." Under current law, loans made by regional housing authorities in rural Alaska enjoy the benefit of a one-percent interest rate advantage. But the above language could in effect carry that advantage over into loans made by regional housing authorities in places outside the state's rural areas. In other words, by referring to rural programs which in some cases have lower interest rates, the above wording could allow housing authorities to originate and service loans in urban areas at interest rates lower than rates offered by urban banks -- hence the unfair competition concern.

To level the playing field, the above language has been reworded to: "[t]he rate of interest on a loan authorized by this subsection in a rural area of the state may not exceed the interest rate on a loan originated or purchased under AS 18.56.400 - 600; and outside a rural area of the state may not exceed the rate established by the corporation under the provisions of AS 18.56 that are appropriate for the mortgage loan." With this language, all parties originating and servicing AHFC guaranteed loans would have the same interest rates as their competitors both in urban and rural settings. Urban rates would be the same, rural rates would be the same, and there would be no unfair competition.

9-LS0463\K
Chenoweth
3/15/95

CS FOR HOUSE BILL NO. 192( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Ivan

A BILL

FOR AN ACT ENTITLED

"An Act relating to housing programs of the Alaska Housing Finance Corporation, to the corporation's supplemental housing development grants to regional housing authorities, and to housing programs of regional housing authorities, and permitting regional housing authorities to make, originate, and service loans for the purchase and development of residential housing."

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

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(B) does not include a multi-family residence that constitutes housing for which a loan is made under the rental housing loan program of AS 18.56.580 when one of the dwelling units in the multi-family

residence is occupied by the residence owner:

(2) "small community" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks, or with a population of 1,400 or less that is connected by road or rail to Anchorage or Fairbanks; in this paragraph, "connected by road" does not include a connection by the Alaska marine highway system.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 192

Revision Date:
Dept. Affected: Revenue
Title: An Act relating to housing programs of the AHFC, the corporation's supplemental housing development program
BRU: AHFC
Component: AHFC Operations, AHFC Rural Housing
Sponsor: Foster, Elton
Requester:
COMPONENT SERIAL NO. 110, 1937

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	5,000.0	5,000.0	5,500.0	5,500.0	6,000.0	6,000.0
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1022 State Corporation Receipts	5,000.0	5,000.0	5,500.0	5,500.0	6,000.0	6,000.0
TOTAL	5,000.0	5,000.0	5,500.0	5,500.0	6,000.0	6,000.0

Estimate of any current year (FY95) cost: $ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

AHFC Operations: No affect on operating costs - language change only.

AHFC Rural Housing: Capital increase for the Supplemental Housing Development Grant
$5,000.0 FY96 & FY97, $5,500.0 FY98 & FY99, $6,000.0 FY00 & FY01

The Supplemental Housing Development Grant funds can be used for cost of on-site water and sewer facilities, extension of electrical distribution systems, roads to project sites and energy efficient design features in the homes of Indian Housing projects developed by the Regional Housing Authorities with U.S. Dept. of HUD funds.

When the Supplemental Housing Grant Program was instituted in 1982, the State of Alaska's match to HUD funds was established at 20% of the HUD total development cost of the housing projects.

con't next page

Prepared by:
Division: Alaska Housing Finance Corporation
Phone: 561-1900
Date: 2/27/95
Approved by
Commissioner: Deborah Vogt
Date: 2/27/95
Agency: Revenue

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ANALYSIS con't

Since that time, the cost of housing development and infrastructure has increased dramatically. When the program was expanded in 1991 to include use for energy efficient design features, the funding level did not increase.

HB192 provides for an increase of 10% by the AHFC to more adequately cover these increased costs. It allows for expanding the Supplemental Housing grant funds so the housing authorities can use them for off-site water and sewer facilities that are required for developing of the HUD housing projects. The state has resolved to recognize the dire water and sanitation conditions in rural Alaska and improve this critical health threatening situation. A Task Force has even been formed to respond to this problem.

The 1988 and 1991 Alaska Rural Housing Needs Assessment showed an immediate need for an additional 6500 housing units in rural Alaska. Because of our continued commitment to alleviating the sub-standard housing conditions of so many of our rural residents, we took this information to HUD headquarters and encouraged HUD to dramatically increase their funding for Indian Housing to the State of Alaska. For example, the HUD contribution for the past 5 years follows:

FFY90	FFY91	FFY92	FFY93	FFY94
$17,400.0	$25,300.0	$30,200.0	$33,600.0	########

We were instrumental in getting HUD to lift the Cap on the total development cost allowed per unit from $92,200 to the cost of development established by the geographical area.

In order for the state of Alaska to continue receiving the much needed funding from the U.S. Dept. of HUD in order to build Indian housing, we need to continue our commitment to orovide decent, sanitary housing which is affordable to our rural residents. A 10% increase in the Supplemental Housing Development Grant funds is needed.

ALASKA STATE LEGISLATURE
REPRESENTATIVE RICHARD FOSTER

Session: STATE CAPITOL, ROOM 410, JUNEAU, ALASKA 99811 • 907-465-3789 • FAX 907-465-3242
Interim: PO BOX 1630, NOME, ALASKA 99762 • 907-443-5036 • FAX 907-443-2162

HOUSE BILL 192

SPONSOR STATEMENT

The Alaska Housing Finance Corporation (AHFC) was created in 1971 to provide Alaskans with low-cost mortgage financing. Through its single and multi-family loan programs, public and assisted rental housing, and weatherization and housing-development programs, AHFC has become an important contributor to Alaska's economy.

Although the AHFC is statutorily mandated to serve low and moderate-income and rural Alaskans, AHFC loan originations are not readily available to all communities because regional housing authorities technically do not have local origination authority. "Origination" is the process of accepting loan applications, processing loans, packaging loans to ship for underwriting (AHFC approval), and closing or assisting with closing. As a result of the inability of regional housing authorities to originate loans, residents of rural Alaska must go through inordinate red tape in obtaining mortgages. One objective of House Bill 192 is to enable regional housing authorities to make, originate, and service loans within their jurisdictions, thus making home mortgages more promptly available to rural Alaskans. House Bill 192 does not change AHFC's role; AHFC retains control of final approval of any new loans, so that there is no threat to the overall integrity of its portfolio.

House Bill 192 also seeks to increase the Supplemental Housing Match (SHM) from 20 to 30%. The legislature implemented the SHM program, providing for a 20% match, from the general fund, in order to meet the federal Department of Housing and Urban Development (HUD) requirements for water and sewer facilities, electrical distribution systems, roads to project sites, and energy-efficient design features. Since the program's inception, the SHM has remained at 20%, with no adjustments for inflation. Water and sewer, in particular, is far more costly today than 15 years ago. In fact, in some cases the 20% match may never have been adequate, as, for example, in the Yukon-Kuskokwim delta region, where it has always been extremely costly to install such systems. A match of 30% would more adequately reflect the actual costs incurred in meeting the terms to leverage the funds from HUD. I ask that you bear in mind the beauty of the match -- for a percentage of the project, Alaska can leverage significant HUD (federal) funds.

Through House Bill 192, I seek to improve access to the safe, energy efficient, affordable housing which every Alaskan, rich, poor, urban or rural, deserves. I urge your support.

ALASKA STATE LEGISLATURE
REPRESENTATIVE RICHARD FOSTER

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MEMORANDUM

TO: House Committee on Community and Regional Affairs
Representative Ivan Ivan, Co-Chair
Representative Alan Austerman, Co-Chair

FROM: Representative Richard Foster RF
Co-Chair, House Finance Committee

RE: House Bill 192

DATE: February 22, 1995

House Bill 192, which I am sponsoring, has been referred to your committee. I respectfully request that you schedule it to be heard as soon as possible. To give you some preliminary background on the proposed legislation, I am attaching to this memorandum a copy of my Sponsor Statement. Should you have any questions or concerns, please contact Elizabeth Dronkert, in my office, for assistance. Thank you.

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 March 14, 1995

SUBJECT: Draft CSHB 192( ), relating to AHFC and regional housing authority housing programs -- sectional analysis (Work Order No. 9-LS0463\G)

TO: Representative Richard Foster
ATTN: Elizabeth Dronkert

FROM: Jack Chenoweth
Legislative Counsel

This measure deals, generally, with housing. In addition, in this year's bill as introduced, the measure also addresses infrastructure costs associated with improved housing.

In its initial sections, the bill proposes to modify key elements or features of housing programs of the Alaska Housing Finance Corporation operating in rural areas, authorizes the regional housing authorities to act as seller-servicers of loans throughout the state, and changes the laws applicable to construction of water and sewer facilities.

Bill section 1: This section amends AS 18.55.997(a) relating to the powers granted to regional housing authorities by (1) adding to the powers currently granted to the authorities the ability to originate and service residential housing loans (in AHFC-parlance, it would grant the regional housing authorities the status of "seller-servicer" of residential housing loans), and (2) eliminates the geographical restrictions on areas of the state in which the regional housing authorities may so operate. Under current law, AS 18.55.997(a) requires that loans made by regional housing authorities in the rural areas of the state enjoy the benefit, under AS 18.56.420, of a one-percent interest rate advantage. The additional language added in this bill section avoids carrying that advantage over into loans made by regional housing authorities in places outside the state's rural areas. This further change in this bill section makes it explicit that, while the one-percent interest rate advantage would continue to operate for regional housing authority-originated loans made in rural areas, all other loans made or originated by regional housing authorities shall be at the rate as determined by AHFC.

Bill section 2: The bill section amends the purposes for which money in AHFC's existing supplemental housing development grant fund may be expended to permit money in the fund

to be used for off-site water and sewer facilities as well as, under current law, on-site facilities.

Bill section 3: Under current law, the portion of the grant that may be made by AHFC for residential housing for which financial assistance is to be provided by the U.S. Department of Housing and Urban Development is limited to 20 percent of the total development cost per unit. This bill section proposes to raise that percentage to 30 percent.

Bill section 4: This provision revises AS 18.55.998(c) to assure that, when a grant is made from the supplemental housing development fund, the money awarded and received will be used "only for the purpose and the permissible use for which the grant was made," replacing the current language of that subsection that permitted its use "for the purposes specified [in subsection (a) of the statute]." The changes also amend that subsection to conform to standard legislative drafting style.

Bill section 5: The subsection directs AHFC to establish a priority system for the allocation of money from the supplemental housing development fund to support the off-site water and sewer facility improvements authorized by the change made in bill section 2.

The remainder of the bill makes changes to AHFC's current "nonowner-occupied" housing program. The nonowner-occupied housing program now limits the financial assistance to each of the following in which the owner may not reside: single-family units and multi-plex buildings containing up to eight units. As its name implies, the current AHFC program chiefly supports rental units. The changes made in the following sections are intended to remove the restriction imposed on owner-occupancy in order to allow the owner to occupy. Since the program could no longer properly be styled "non-owner occupied housing," the bill proposes to describe it simply as "rental" housing.

Bill section 6: The changes made in this bill section are technical. Since the nature of the changes made in the following bill sections remove the restriction on owner-occupancy, the revision restates the provision in terms that reflect that change.

Bill sections 7 and 8: AS 18.56.580 now sets out the "non-owner occupied housing program." The amendments in the respective sections substitute reference to "rental" for reference to "non-owner occupied" to describe the program.

Bill section 9: The changes made to the definitions provision (1) substitute the term "rental housing" for "non-owner occupied housing"; (2) expand the limitation on the number of eligible multi-plex units from 8 to 16; (3) permit the owner to occupy one of those multi-plex units; and (4) limit the program to operating in the state's "small communities," a term already defined for purposes in these housing programs. See AS 18.56.600(2), set out in the next following bill section.

Bill section 10: The amendments to the definition of the term "housing" in AS 18.56.600(1) broaden, in subparagraph (A), the definition of the term for purposes of certain AHFC programs to cover owner-occupied housing with as many as four units under one roof (the limit in the current law is two units), and (2) excludes, in subparagraph (B), assistance under other AHFC programs for development of housing units that would be built under the former "non-owner occupied," now retitled "rental," housing program of AS 18.56.580. The purpose of subparagraph (B) is to preclude a prospective borrower from being eligible under the various housing assistance programs.

JBC:klb:glc
95-158.klb

National Bank of Alaska

Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 276-1132

March 14, 1995

Representative Richard Foster
State Capital, Room 410
Juneau, AK 99811

RE: House Bill 192

Dear Representative Foster:

National Bank of Alaska is a partner in the development of housing in rural Alaska. Alaska Housing Finance Corporation is the major provider of long-term mortgages for the rural homeowners of our state. Due to our branch locations in many of these rural communities, we believe that there are many housing needs that need to be addressed in the future. We see Alaska Housing Finance Corporation and the rural housing authorities as partners in the development of adequate housing for our citizens.

We have been requested to comment on House Bill 192 and generally support it. We have discussed the bill with a number of the housing authorities and Alaska Housing Finance Corporation and can not find anything objectionable to us and believe that it may be beneficial for rural housing. Our loan originations for remote housing in 1994 sold to Alaska Housing Finance Corporation amounting to 297 loan totaling $33,852,000 scattered throughout 35 rural communities.

Sincerely yours,

J.K. Sieberts
Senior Vice President

INTEROFFICE MEMO

National Bank of Alaska

To: Jan Sieberts

Date: March 7, 1995

From: Cheryl Henry

Subject: 1994 AHFC-RHD loan activity

Here's a breakdown of our AHFC Rural Housing Division loans in 1994. This information is based on loans sold to AHFC-RHD in 1994.

AREA	# LOANS	ORIGINAL LOAN AMOUNT
Anchor Point	5	404,400
Aniak	1	108,000
Barrow	39	5,152,175
Bethel	19	2,160,350
Cordova	18	1,787,450
Craig	2	283,200
Delta Junction	7	643,900
Dillingham	21	2,173,650
Emmonak	1	36,300
Ft Yukon	1	45,100
Glenallen	3	370,300
Homer	2	158,500
Iliamna	1	87,500
Ketchikan	20	2,923,500
King Salmon	6	616,000
Kodiak	29	4,232,100
Kotzebue	21	2,295,450
McGrath	1	76,500
Naknek	3	280,150
Ninilchik	1	141,300
Nome	52	5,506,240
Petersburg	24	2,522,750
Port Alsworth	1	134,900
Sand Point	2	181,200
Seldovia	3	193,550
Skagway	2	217,950
St Paul Island	2	103,500
Sutton	1	53,700
Tok	2	191,750
Unalakleet	2	171,300
Unalaska	2	283,500
Wrangell	3	426,400
Total	**297**	**33,852,565**

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

520 East 34th • Anchorage, AK 99503
Phone (907) 562-7119 • Fax (907) 562-7123

Alaska Housing Finance Corporation

Aleutian Housing Authority

Association of Village Council Presidents Regional Housing Authority

Barrow Inland Housing Authority

Bering Straits Regional Housing Authority

Bristol Bay Housing Authority

Cook Inlet Housing Authority

Copper River Basin Regional Housing Authority

Interior Regional Housing Authority

Kodiak Island Housing Authority

Metlakatla Housing Authority

North Pacific Rim Housing Authority

Northwest Inupiat Housing Authority

Tagiugmiullu Nunamiullu (TNHA)

Tlingit-Haida Regional Housing Authority

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

POSITION PAPER

HOUSE BILL 192

The Association of Alaska Housing Authorities issues its strong support for House Bill 192. This bill provides Alaska's regional housing authorities with greater flexibility to originate and service mortgage loans. The statute currently states that Alaska's regional housing authorities may make loans in rural areas of the state, other than in an area where the corporation (AHFC) has a loan office. By amending the statute, the regional housing authorities will better serve all their clients by providing a continuum of housing assistance, including access to AHFC housing loan programs.

House Bill 192 will also allow for an increase in AHFC's Supplemental Housing Development Grant program (SHDGP) from 20% to up to a 30% match. The program matches U.S. Department of Housing and Urban Development housing development funds. In Fiscal Year 1995, the SHDGP provided $8 million in grants, leveraging $48.8 million in HUD housing development funds - the joint program funded the construction of 259 affordable homes in 19 villages throughout Alaska.

Supplemental Housing Development Grant Program monies are used to fund water and sewer system development, electrical distribution systems, roads to housing development sites and design features which ensure that Alaskan homes are energy efficient.

The grant program is especially important in the area of water and sewer system development. The 1994 Rural Alaska Sanitation Initiative/Federal Field Work Group study identified 90 Alaskan villages where individual and community honey bucket haul, pit privies and bunkers are the only means of sewage collection and disposal. Funding from the SHDGP helps in ameliorating this serious problem.

Thank you for the opportunity to comment on House Bill 192. This legislation will be a significant step toward increasing affordable housing opportunities and needed infrastructure throughout Alaska.

Aleutian Housing Authority

401 East Fireweed Lane
Anchorage, Alaska 99503

(907) 258-5614 Fax (907) 276-5975

MAR - 1995

Alaska State Legislature
Representative Richard Foster
State Capitol, Room 410
Juneau, Alaska 99811

March 3, 1995

Dear Representative Foster:

As the Executive Director of the Aleutian Regional Housing Authority I wish to state my strong support for House Bill 192.

Our region which encompasses all of the Aleutian Area and the Pribilof Islands has an enormous need for housing and adequate sewer and water systems currently not being met by HUD funded or private funding institutions.

House Bill 192 would allow the Alaskan regional housing authorities to originate and process loans directly to low to moderate rural Alaskans in need of housing. It would also increase the Alaska Housing Finance Corporation's (AHFC) Supplemental Housing Development Grant Program (SHDGP) from the current 20 percent to 30 percent.

If enacted this bill will greatly improve access of safe, sanitary and efficient housing primarily to the under-served Alaskans of low to moderate income residing in rural Alaska.

Thank you very much for your actions on this bill.

Sincerely,

Kris N. Anderson
Aleutian Housing Authority

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 March 3, 1995

SUBJECT: AHFC and regional housing authority housing programs (Work Order No. 9-LS0463\F)

TO: Representative Richard Foster
ATTN: Elizabeth Dronkert

FROM: Jack Chenoweth
Legislative Counsel

Following last session's HB 467, this measure deals, generally, with housing. In addition, in this year's bill as introduced, the measure also addresses infrastructure costs associated with improved housing.

In its initial sections, the bill proposes to modify key elements or features of housing programs of the Alaska Housing Finance Corporation operating in rural areas, authorizes the regional housing authorities to act as seller-servicers of loans throughout the state, and changes the laws applicable to construction of water and sewer facilities.

Bill section 1: This section amends AS 18.55.997(a) relating to the powers granted to regional housing authorities by (1) adding to the powers currently granted to the authorities the ability to originate and service residential housing loans (in AHFC-parlance, it would grant the regional housing authorities the status of "seller-servicer" of residential housing loans), and (2) eliminates the geographical restrictions on areas of the state in which the regional housing authorities may so operate.

Bill section 2: The bill section amends the purposes for which money in AHFC's existing supplemental housing development grant fund may be expended to permit money in the fund to be used for off-site water and sewer facilities as well as, under current law, on-site facilities.

Bill section 3: Under current law, the portion of the grant that may be made by AHFC for residential housing for which financial assistance is to be provided by the U.S. Department of Housing and Urban Development is limited to 20 percent of the total development cost per unit. This bill section proposes to raise that percentage to 30 percent.

Bill section 4: This provision revises AS 18.55.998(c) to assure that, when a grant is made from the supplemental housing development fund, the money awarded and received will be used "only for the purpose and the permissible use for which the grant was made," replacing the current language of that subsection that permitted its use "for the purposes specified [in subsection (a) of the statute]." The changes also amend that subsection to conform to standard legislative drafting style.

Bill section 5: The subsection directs AHFC to establish a priority system for the allocation of money from the supplemental housing development fund to support the off-site water and sewer facility improvements authorized by the change made in bill section 2.

Bill section 11 deletes the definition of the word "rural" for purposes of AS 18.56.997. (Substantive reference to "rural" is removed by the amendment proposed in bill section 1.)

*

The remainder of the bill makes changes to AHFC's current "nonowner-occupied" housing program. The nonowner-occupied housing program now limits the financial assistance to each of the following in which the owner may not reside: single-family units and multi-plex buildings containing up to eight units. As its name implies, the current AHFC program chiefly supports rental units. The changes made in the following sections are intended to remove the restriction imposed on owner-occupancy in order to allow the owner to occupy. Since the program could no longer properly be styled "non-owner occupied housing," the bill proposes to describe it simply as "rental" housing.

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other AHFC programs for development of housing units that would be built under the former "non-owner occupied," now retitled "rental," housing program of AS 18.56.580. The purpose of subparagraph (B) is to preclude a prospective borrower from being eligible under the various housing assistance programs.

JBC:pl
95-056.plm

BERING STRAITS REGIONAL HOUSING AUTHORITY

P.O. Box 995
Nome, Alaska 99762
443-5256 or 5257
FAX No. (907) 443-2160

March 3, 1995

Representative Richard Foster
Alaska House of Representatives
State Capitol
Juneau, AK 99811-1182

Re: Support for HB 192

Dear Representative Foster,

On behalf of the Bering Straits Regional Housing Authority, I offer our support for House Bill No. 192 and extend our appreciation for your sponsorship. Two provisions of the bill have significant importance for our region:

1. AHFC Loan Programs - Despite progress in developing new housing in our villages, its clear that we need to utilize every possible resource to meet Alaska's varied housing needs. Existing and future loan programs from AHFC will play an important role, and the provisions of HB 192 which authorize the regional housing authorities to originate and service the loans is a valuable tool in meeting part of that need.

Several of the programs now available from AHFC and others (e.g., Farmers Home Administration and the Veterans Administration) are severely under-utilized in rural Alaska. Part of the reason is certainly village economics, but another part is the lack of village access to information and the basic mechanics of the loan programs. There are moderate income families in Nome and in our villages which can benefit from one or more of these programs and achieve their goals of homeownership. In most cases a successful home loan will require much more effort than in an urban community. HB 192 will help "regionalize" the loan programs and offer familiar faces to families trying to participate.

2. Supplemental Housing Grant Program - The amendments made by HB 192 improves the program which supplements HUD housing grants to regional housing authorities by impacting both the quantity and quality of housing which we can build each year:

-The Supplemental Housing Grant provides for additional homes to be built each year by adding a "match" to HUD funds and expanding the program for new construction. For typical construction in our region, I estimate the changes in HB 192 would build 28-30 new homes next year.

-The change in HB 192 which allows the use of Supplemental Housing Grant funds for "off-site" sewer and water facilities can mean a big difference in projects where funds otherwise available for construction are required for infrastructure. This is because of the HUD-mandated cap on construction costs and the practical need to improve water and sewer in most of our project locations. The amount of effort we need to put into these improvements is on a project-by-project basis, but the ability to use SHG funds will give us an excellent opportunity to better coordinate these improvements to community sanitation facilities with federal (PHS, EPA), state (DEC, VSW), and local resources. Instead of compromising quality of construction of our houses because we have to put in longer water and sewer lines or buy more honeybucket dumpsters, HB 192 will allow the Supplemental Housing Grant program to consider these costs as allowable.

We very much appreciate your support and continuing efforts on behalf of the families of our region. If you have any questions or need more information about these comments please contact me at 1-907-443-5256.

Sincerely,

Bruce Kovarik
Executive Director

pc: BSRHA Board of Commissioners
Legislative File
Chron

METLAKATLA HOUSING AUTHORITY
P.O. BOX 59 Metlakatla, Alaska 99926 * Telephone (907) 886-6500 * FAX (907) 886-6503

March 3, 1995

TO: REPRESENTATIVE RICHARD FOSTER
Fax # 907-465-3242

FROM: WILL H. BROWN, EXECUTIVE DIRECTOR

SUBJECT: ALASKA HOUSING FINANCE CORPORATION SUPPLEMENTAL GRANT FUNDS

I am writing this statement of support for House Bill 192. AHFC supplemental grant funding is critical to our Indian Housing Authority's ability to provide housing for our community. At the current 20% matching level it is not possible to cover all costs of off-site infrastructure and energy efficient construction. While we certainly are appreciative of the funding, an increase to a 30% match is far more realistic to meet costs.

I believe it is fair to say that without AHFC's supplemental grant funding Metlakatla would fall far short in meeting it's commitment to provide decent, safe, and sanitary housing for our residents.

Thank you for your support on this issue and here's hoping for success on House Bill 192.

cc: Jerry Mackie, Representative

401 East Fireweed Lane
Anchorage, Alaska 99503

(907) 258-5614 Fax (907) 276-5975

Alaska State Legislature
Representative Richard Foster
State Capitol, Room 410
Juneau, Alaska 99811

March 3, 1995

Dear Representative Foster:

As the Executive Director of the Aleutian Regional Housing Authority I wish to state my strong support for House Bill 192.

Our region which encompasses all of the Aleutian Area and the Pribilof Islands has an enormous need for housing and adequate sewer and water systems currently not being met by HUD funded or private funding institutions.

House Bill 192 would allow the Alaskan regional housing authorities to originate and process loans directly to low to moderate rural Alaskans in need of housing. It would also increase the Alaska Housing Finance Corporation's (AHFC) Supplemental Housing Development Grant Program (SHDGP) from the current 20 percent to 30 percent.

If enacted this bill will greatly improve access of safe, sanitary and efficient housing primarily to the under-served Alaskans of low to moderate income residing in rural Alaska.

Thank you very much for your actions on this bill.

Sincerely,

Kris N. Anderson
Aleutian Housing Authority

north pacific rim housing authority

March 2, 1995

Representative Richard Foster
State Capaitol, Room 410
Juneau, Alaska 99911

Dear Representative Foster,

I strongly support HB 192. The North Pacific Rim Housing Authority serves several communities in rural areas that will directly benefit from an enhanced ability to originate AHFC loans. These communities - Seward, Cordova, Valdez, Port Graham, Nanwalek, Tatitlek, and Chenega Bay, all have eligible populations that could benefit from localization and personalization of loan origination outreach.

NPRHA recently canvassed the Valdez/Seward area in an effort to find eligible candidates for an interest rate-supported "Loans to Sponsors" program. Although interest was overwhelming, NPRHA was unable to assist these individuals other than to refer them to AHFC.

I also support increasing the state match percentage from 20% to 30%. This would allow the regional housing authorities to serve communities that, due to adverse localized design handicaps, are not served with the supply of housing that they need. Please support HB 192.

Respectfully,

Derenty Tabios
Executive Director,
North Pacific Rim Housing Authority

4201 Tudor Centre Drive, Suite 205 • Anchorage, Alaska 99508 • Ph. (907) 562-1444 • Fax (907) 562-1445

Providing Housing Services To The People of the Chugach Native Region

TOTAL P.02

ALASKA HOUSING FINANCE CORPORATION

SUPPLEMENTAL HOUSING DEVELOPMENT PROGRAM

Homes by Region Funded in
Fiscal Year 1994*

HOUSING AUTHORITY	REGION	NUMBER OF HOMES
AVCP	CALISTA	20
INTERIOR	INTERIOR	22
TLINGIT-HAIDA	SOUTHEAST	16
NW INUPIAT	NANA	20
BRISTOL BAY	BRISTOL BAY	17
ALEUTIAN	ALEUTIAN	7
BERING STRAITS	BERING STRAITS	60
BARANOF ISLAND	SITKA	20
METLAKATLA	METLAKATLA	36
NORTH PACIFIC RIM	CORDOVA	21
TAGIUGMIULLU NUNAMIULLU	BARROW	20
TOTAL		259

*In FY94, AHFC contributed $8 million to 11 regional housing authorities to leverage $33 million in HUD funds to build 259 houses in 19 villages.

HB

223

9-LS0833\A.1
Ford
3/29/95

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE IVAN

TO: HB 223

Page 1, line 13, after "basis.":

Insert "**If the participating membership of a joint insurance arrangement includes a nonprofit corporation, Native association, or Native village council, at least 60 percent of the membership of the joint insurance arrangement must consist of municipalities, city or borough school districts, or regional educational attendance areas.**"

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 223

Revision Date:
Title: Joint Insurance Arrangements

Department: Commerce and Economic Development
BRU: Insurance
Component: Operations

Sponsor: Representative Ivan
Requestor:

COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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						
CHANGE IN REVENUES						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: $ 0.0

POSITIONS

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

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

Prepared by: Joan Brown, Administrative Officer
Phone: 465-2597
Division: Insurance
Date: 3/6/95

Approved by Commissioner: William L. Hensley
Date: 3/7/95
Agency: Commerce and Economic Development

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Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR SUMMARY for HOUSE BILL 223

This bill is in response to the needs of quasi-governmental entities, such as Native tribal councils, port authorities and others, who either cannot obtain insurance or find the cost of insurance prohibitively expensive. House Bill 223 gives these entities an option to obtain affordable liability coverage that they currently do not have under current statute.

The current joint insurance statute limits participation to municipalities and their public corporations, school districts and REAA's. This bill expands the scope of pooling so that pools, either those in existence or additional pools, can serve the unmet needs of tribal councils and other quasi-governmental bodies. Those that would be eligible for coverage must perform at least two of the general municipal powers described under AS 29.35.101.

Sec. 21.76.010
AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS.

(a) Municipalities and their public corporations, city and borough school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions in order to either assume risks from losses to the participants on a group basis or purchase coverage for the participants on a group basis.

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for disability insurance, health insurance, life insurance, and title insurance.

(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

(d) For purposes of AS 23.30.075, a joint insurance arrangement is considered to be an association duly authorized to transact workers' compensation insurance in the state.

History -
(Sec. 1 ch 136 SLA 1986; am Sec. 3 ch 97 SLA 1992)
Amendment Notes -

The 1992 amendment, effective June 20, 1992, inserted "and their public corporations" in subsection (a).

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

(1) to establish and prescribe a salary for an elected or appointed municipal official or employee;

(2) to combine two or more appointive or administrative offices;

(3) to establish and prescribe the functions of a municipal department, office, or agency;

(4) to require periodic and special reports from a municipal department to be submitted through the mayor;

(5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;

(6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;

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

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

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

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

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

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

(14) to sue and be sued.

History -
(Sec. 10 ch 74 SLA 1985)
Decisions -

The rule of strict construction did not apply - to the mode adopted by the corporation to carry into effect powers expressly or plainly granted under a former, similar provision. The power having been granted, the municipal corporation had the power to exercise such power in any reasonable way it saw fit. Femmer v. City of Juneau, 9 Alaska 175 (1937),

aff'd, 97 F.2d 649 (9th Cir. 1938).

Taxing authority consistent with liberal construction requirements. - The broad grant of taxing authority, limited only by other provisions of law, is consistent with the second sentence of Alaska Const., art. X, Sec. 1, which requires that a "liberal construction shall be given to the powers of local government units." Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978), decided under former, similar law.

Imposition of civil penalties. - The power of a municipality to impose a civil penalty for failure to timely file or pay sales taxes is granted primarily because Alaska Const., art. X, Sec. 1, requires that a liberal construction be given the powers of municipalities. Bookey v. Kenai Peninsula Borough, 618 P.2d 567 (Alaska 1980), decided under former, similar law.

There is no general prohibition against like municipal and state taxes. - Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978), decided under former, similar law.

Collateral Refs -

56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, Sec. 193-230.

Estoppel as to claim against municipality. 1 ALR2d 338.

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

Granting or taking of lease by municipality as within authorization of purchase or acquisition thereof. 11 ALR2d 168.

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

Liability of municipality owning public ball park for injuries by ball to person on nearby premises. 16 ALR2d 1458.

Death action against municipal corporation as subject to statute of limitations governing wrongful death actions or that governing actions against a municipality for injury to person or property. 53 ALR2d 1068.

Mandamus, liability of municipal corporation for damages to successful plaintiff or relator in. 73 ALR2d 903; 34 ALR4th 457.

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

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

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

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

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

Liability of municipality on quasi contract for value of property or work furnished without compliance with bidding requirements. 33 ALR3d 1164.

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

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

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

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

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

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

Standing of local government, or agency thereof to bring suit under Civil Rights Act of 1871 (42 USCS Sec. 1983). 106 ALR Fed 58€.

Supreme Court's views as to who is "person" subject to liability under civil rights statute (42 USCS Sec. 1983) providing private right of action for violation of federal rights. 105 L Ed 721.

Department of Commerce & Economic Development / POSITION PAPER

HB 223: Joint Insurance Arrangements

This legislation has no direct effect on the programs of the Division of Insurance. However, the division has concerns about this proposed legislation because it may expose both individuals and those entities listed in the bill to serious financial risks.

This legislation would allow nonprofit corporations, Native associations, and Native Village Councils to form Joint Insurance Arrangements under AS 21.76. Organizations formed under AS 21.76 are unregulated. The entities added to JIAs under this bill are frequently small and undercapitalized, meaning that potential claims could seriously jeopardize the entities' solvency, and/or result in the nonpayment of claims. For example, a workers' compensation loss can be very large and sometimes require payments to be made over a long period of time. Such a loss could cause a severe financial strain on not only the entity directly liable on the claim, but on all participants of the JIA.

AS 21.76 currently allows municipalities and school districts to establish JIAs. These entities, unlike those proposed to be added by this bill, have a tax base to cover potential claims and alleviate solvency concerns.

Finally, this legislation is arguably unnecessary because the entities to be added already have the ability to form a reciprocal insurer under AS 21.75. Any such reciprocal insurer would have to meet regulatory requirements, including those relating to solvency for the protection of potential claimants.

William L. Hensley, Commissioner

Date: 3/29/95

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032995a

ALASKA MUNICIPAL LEAGUE
JOINT INSURANCE ASSOCIATION, INC.

ANCHORAGE 626 F Street, Suite 100 ■ Anchorage, Alaska 99501 ■ Tel (907) 258-2625 ■ Fax (907) 279-3615
JUNEAU 217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-3222 ■ Fax (907) 463-5480

March 2, 1995

The Honorable Representative Ivan Ivan
Alaska State House of Representatives
Alaska State Capitol
Juneau, Alaska 99811

Dear Representative Ivan:

Thank you for agreeing to sponsor HB223, an act relating to joint insurance arrangements. The AML/JIA offers the bill in response to the needs of quasi-governmental entities, such as Native tribal councils, port authorities, and others, many of which cannot obtain insurance, or for which insurance is prohibitively expensive. This bill will give these organizations an option — in some cases, their only option — to obtain affordable liability coverage.

The current joint insurance statute limits participation to municipalities and their public corporations, school districts, and REAAs. The AML/JIA is one of two pools that have formed to serve these public entities. The bill would expand the scope of pooling so that pools — either those in existence or additional pools — can serve the unmet needs of tribal councils and other quasi-governmental bodies. In offering these public organizations another option for their insurance coverage, this expansion of the statute would serve all of Alaska.

The AML/JIA does not receive State funds. It is a cooperative self-insurance arrangement that permits municipalities and schools to pool their resources to finance their losses. The AML/JIA was created in the mid-1980s, when many municipalities and school districts, particularly the small ones, found themselves unable to secure coverage commercially. The AML/JIA provides an important pooling option for these municipalities and schools, and wishes to be able to do the same for certain organizations that perform governmental functions but for which, under the current statute, pooling is not an option.

You will see that the proposed expansion is limited to nonprofit organizations, Native associations, or Native village councils that perform at least two of the general municipal powers described under AS29.35.101.

Senator John Torgerson has agreed to sponsor a companion bill in the other body, and is aware that you will be sponsoring a version in the house.

We look forward to working with you and Mr. Wright in your sponsorship of the legislation, and we thank you for your interest and assistance.

Sincerely,

Kevin

Kevin Smith
Risk Control Manager

cc Senator John Torgerson
Steve Wells, Director of Risk Management, AML/JIA
Kevin Ritchie, Executive Director, AML

Resolution of the Alaska Municipal League

Resolution No. 95-22

A RESOLUTION URGING THE PASSAGE OF LEGISLATION EXPANDING THE TYPE OF ENTITIES WHICH MAY PARTICIPATE IN JOINT INSURANCE ARRANGEMENTS

WHEREAS, Alaska Statute 21.76 allows municipalities and their public corporations, city and borough school districts, and regional education attendance areas to enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions in order to either assume risks from losses to the participants on a group basis or purchase coverage for the participants on a group basis; and

WHEREAS some Alaska municipalities are dissolving and native associations and corporations and other non-profits are assuming quasi-governmental roles; and

WHEREAS there is a trend for municipalities to shift service delivery to not-for-profit entities such as port authorities, library associations, and other not-for-profit corporations performing governmental functions; and

WHEREAS not-for-profits and native associations and corporations are finding it increasingly difficult and expensive to find commercial insurance for these exposures; and

WHEREAS, the pooling of risks, self-insurance management, joint purchase of insurance, claims administration, loss prevention and control, insurance defense and other related risk management services can assure significant long-term economic savings for members of a joint insurance arrangement due to the joint buying power of the members, the non-profit tax-exempt status of the Association, the pooling and investment of premiums paid, and risk management services provided for members;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation expanding the type of entities which may participate in joint insurance arrangements.

John Torgerson, President

ATTEST:

Kevin C. Ritchie, Executive Director

HB

247

9-LS0507\K.1
Cook
3/21/95

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE IVAN

TO: HB 247

Page 2, after line 4:

Insert a new bill section to read:

"* Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

(54) AS 29.20.130 (city council composition)."

Renumber the following bill sections accordingly.

Page 4, lines 17 - 26:

Delete all material and insert:

"Sec. 29.20.130. CITY COUNCIL COMPOSITION. Each first class city has a council of six members [ELECTED BY THE VOTERS AT LARGE]. Each second class city has a council of seven members elected by the voters at large. The council members of a first [OR SECOND] class or home rule city are elected from single member districts. Formation of election districts, apportionment, redistricting, and reapportionment for council elections shall be accomplished by ordinance in accordance with procedures and requirements for apportionment and reapportionment applicable to boroughs under AS 29.20.060 - 29.20.120 [MAY BY ORDINANCE PROVIDE FOR ELECTION OF MEMBERS OTHER THAN ON AN AT-LARGE BASIS FOR ALL MEMBERS].

* Sec. 10. AS 29.20.130 is amended by adding a new paragraph to read:

(b) This section applies to home rule and general law municipalities."

Renumber the following bill sections accordingly.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL VERSION HB 247
PUBLISH DATE 3-21-95

F I S C A L N O T E

REQUEST:
Revision Date: _____ Affected Agency: House C&RA Committee
Title: " relating to election of municipal governing bodies and municipal school boards" BRU: _____
Sponsor: Representative Vezey Components: _____
Requestor: House C&RA Committee

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 2000	FY 2001
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*
Grants, Claims	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL	*	*	*	*	*	*
REVENUE	*	*	*	*	*	*

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	*	*	*	*	*	*
Federal Fund	*	*	*	*	*	*
Other	*	*	*	*	*	*
TOTAL	*	*	*	*	*	*

POSITIONS:

Full-Time	*	*	*	*	*	*
Part-Time	*	*	*	*	*	*
Temporary	*	*	*	*	*	*

Estimated FY 95 Impact: *

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)
The costs of implementing this legislation is indeterminant.

Prepared By: Tom Wright Committee Staff, House C&RA Committee Date: 3/21/95
Division: House Community and Regional Affairs Committee Phone: 465-4942

Approved By: Representative Ivan M. Ivan, Representative Alan Austerman
Agency: Co-Chairs, House C&RA Committee Date: 3-21-95

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Representative Al Vezey

SPONSOR STATEMENT

House Bill No. 247 is intended to provide better representation on local government bodies and school boards. While the U.S. Supreme Court has held that multi-member districts are not unconstitutional, it also holds that multi-member districts should not be used where single-member districts are more conducive to better representation and conforming more to the Voting Rights Act. The Court has generally ruled in favor of single-member districts whenever multi-member districts have been challenged under the Voting Right Act, concluding the multi-member districts dilute the voting power of certain groups or areas.

As cited by Circuit Judge Bright in *Chapman v. Meier* (372 F. Supp 371, D. ND 1974) and later held by the U.S. Supreme Court, there are many advantages in single-member district elections, including:

1. Single-member districts prevent borough-wide political organizations from proscribing or disciplining elected representatives who stray from political lines. Municipal elections in Alaska are suppose to be non-partisan but reality is, local elections are very political.

2. Single-member districts make it easier to compare fewer candidates and make direct communications with elected officials easier.

3. Single-member districts prevent one political arm with a healthy majority in one or two potential districts from dominating the election of candidates in districts that might narrowly elect a candidate with different political viewpoints.

4. Campaign costs are reduced, campaigns become personalized, and greater citizen interest in seeking public office exists.

5. Public officials become more responsible for their actions by eliminating the team politics encouraged by at-large assemblies.

During public hearings and in written comments received by Governor Hickel's Advisory Reapportionment Board in 1991, Alaskans overwhelmingly supported single-member districts. HB 247 will allow the same benefits to Alaskan voters in elections of city council, borough assembly and school board members as is afforded them in electing state representatives and state senators.

CHAPTER IV

MULTIMEMBER DISTRICTS -- AN OVERVIEW

INTRODUCTION

"The question of the constitutional validity of multimember districts has been pressed in the Supreme Court since the first of the modern reapportionment cases. These questions have focused not on population-based apportionment but on the quality of representation afforded by the multimember districts as compared with single-member districts."[308]

As of this writing, 17 states still have multimember districts in at least one of their legislative bodies.[309] But because of *Mobile v. Bolden*,[310] the Voting Rights Act amendments of 1982, and *Thornburg v. Gingles*,[311] it seems likely that henceforth the courts will not consider racial multimember district claims as Equal Protection questions, but rather as Voting Rights Act questions.

The Voting Rights Act is examined in detail in Chapter III,[312] but because *partisan* multimember district plans and *court*-constructed reapportionment preferences are *not* a part of the 1982 Amendments, the following is an overview of the multimember district constitutional case law.

It began with a dictum (a statement not necessary to decide the case), in the Supreme Court's opinion of *Reynolds v. Sims*[313] on the concept of bicameralism and its continued justification after the Supreme Court's "one person, one vote" ruling: "One body could be composed of single-member districts while the other could have at least some multimember districts." This dictum was cited by the Supreme Court in *Fortson v. Dorsey*, while reversing the district court: "[W]e rejected the notion that equal protection necessarily requires the formation of single-member districts."[314] This position

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[308]*Whitcomb v. Chavis*, 403 U.S. 124, 142 (1971).

[309]See Appendix C.

[310]446 U.S. 55 (1980).

[311]478 U.S. 30 (1986).

[312]*Supra*, pp. 41-72.

[313]377 U.S. 533, 577 (1964).

[314]379 U.S. 433, 436 (1965).

was reaffirmed by *Burns v. Richardson*, which encapsulated *Fortson* with

> [w]here the requirements of *Reynolds v. Sims* are met, apportionment schemes including multimember districts will constitute an invidious discrimination only if it can be shown that "designedly or otherwise, a multimember constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strengtn of racial or political elements of the voting population."[315]

A. MULTIMEMBER DISTRICTS DRAWN BY COURTS

In the 1970s, the Supreme Court first started to whittle away at the use of multimember districts by discouraging their use in court-drawn plans. In *Connor v. Johnson*, the Court said: "We agree that when district courts are forced to fashion apportionment plans, single-member districts are preferable to large multimember districts as a general matter."[316] And in *Chapman v. Meier*, it said: "The standards for evaluating the use of multimember districts thus clearly differ depending on whether a federal court or a state legislature has initiated the use. . . . Absent particularly pressing features calling for multimember districts, a United States district court should refrain from imposing them upon a State."[317]

B. APPLICATION OF THE EQUAL PROTECTION CLAUSE

In 1973, the Court in *White v. Regester* upheld a lower court finding that certain multimember legislative districts were in violation of the Equal Protection Clause.

> Plainly, under our cases, multi-member districts are not *per se* unconstitutional, nor are they necessarily unconstitutional when used in combination with single-member districts in other parts of the State. [cites omitted] But we have entertained claims that multi-member districts are being used invidiously to cancel out or minimize the voting strength of racial groups. [cites omitted] To sustain such claims, it is not enough that the racial group allegedly discriminated against has not had legislative seats in proportion to its voting potential. The plaintiffs' burden is to produce evidence to support findings that the political processes leading to nomination and election were not equally open to participation by the group in questi n - that its members had less opportunity than did other residents in the district to participate in the political processes and to elect legislators of their choice. [cites omitted][318]

The Supreme Court so held as to the black community in one Texas county and the Mexican-American community in another.

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[315]384 U.S. 73, 88 (1966).

[316]402 U.S. 690, 692 (1971).

[317]420 U.S. 1, 18-19 (1975).

[318]412 U.S. 755, 765-766 (1973).

However, starting with *Whitcomb v. Chavis*, the Supreme Court also spoke to the question of multimember districts being "conceived or operated as purposeful devices to further racial or economic discrimination."[319] This came to a head in *Mobile v. Bolden*[320] when the Supreme Court, citing *Whitcomb v. Chavis*, held that because the plaintiffs failed to show a discriminatory purpose, there was no Equal Protection violation -- and also no violation of Section 2 of the Voting Rights Act.

In *Rogers v. Lodge*[321] the Supreme Court reaffirmed its holding in *Bolden*, yet also upheld, for the first time since *Regester* nine years earlier, a lower court ruling of a violation of the Equal Protection Clause in the use of multimember districting (albeit a county governing board rather than a state legislative body). Just two days before the Supreme Court handed down its decision in *Rogers v. Lodge*, the 1982 amendments to the Voting Rights Act were signed into law.

As the Supreme Court stated in *Thornburg*, its first decision construing the 1982 amendments:

> The amendment [Sec. 2] was largely a response to this Court's plurality opinion in *Mobile v. Bolden*, 446 U.S. 55 (1980), which had declared that, in order to establish a violation of either Section 2 or of the Fourteenth or Fifteenth Amendments, minority voters must prove that a contested electoral mechanism was intentionally adopted or maintained by state officials for a discriminatory purpose. Congress substantially revised Section 2 to make clear that a violation could be proven by showing discriminatory effect alone and to establish as the relevant legal standard the 'results test.'[322]

Therefore, the Supreme Court applied the new Section 2 language (discriminatory results) to the case, rather than proceed under the more difficult constitutional standard (discriminatory purpose *and* discriminatory results).

An in-depth discussion of the holdings in *Thornburg* and its lower court progeny can be found in Chapter III, on the Voting Rights Act.[323]

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[319]403 U.S. 124, 149 (1971).

[320]446 U.S. 55 (1980).

[321]458 U.S. 613 (1982).

[322]478 U.S. 30, 35 (1986).

[323]*Supra*, pp. 57-67.

CONCLUSION

Multimember districts that discriminate against a race of persons are most likely to be proven by the discriminatory results test under Section 2 of the Voting Rights Act. Multimember districts that discriminate against members of a political party still need discriminatory purpose as well as discriminatory results for an Equal Protection Clause violation. Court-drawn redistricting plans are very unlikely to include multimember districts.

MULTIMEMBER DISTRICT CASES

Fortson v. Dorsey, 379 U.S. 433 at 436 (1965).
The Supreme Court, affirming its position in Reynolds v. Sims 377 U.S. 533 (1964), held that the Equal Protection Clause does not necessarily require the formation of all single-member districts.

Burns v. Richardson, 384 U.S. 73 at 88 (1966).
The Supreme Court ruled that the Equal Protection Clause does not require that at least one house of a bicameral state legislature consist of single-member legislative districts.

Connor v. Johnson, 402 U.S. 690 at 692 (1971).
The Supreme Court stated that in *court-ordered* reapportionment schemes "we agree that when district courts are forced to fashion apportionment plans, single-member districts are preferable to large multimember districts as a general matter."

Whitcomb v. Chavis, 403 U.S. 124 at 143 (1971).
The Supreme Court reaffirmed its holding that the use of multimember state legislative districts is not *per se* unconstitutional under the Equal Protection Clause, but may be "subject to challenge where the circumstances of a particular case may 'operate to minimize or cancel out the voting strength of racial or political elements of the voting population.'"

Connor v. Williams, 404 U.S. 549 at 551 (1972).
The Supreme Court affirmed its preference for single-member districts in *court-ordered* reapportionment plans.

White v. Regester, 412 U.S. 755 at 765 (1973).
The Supreme Court, affirming the district court's findings, invalidated the use of multimember districts in two Texas counties because the black and Mexican-American communities had been "effectively excluded from participation in the Democratic primary selection process."

Chapman v. Meier, 420 U.S. 1 at 19 (1975).
The Supreme Court held that "[a]bsent particularly pressing features calling for multimember districts, a United States district court should refrain from imposing them upon a State."

Mobile v. Bolden, 446 U.S. 55 (1980).
The Supreme Court ruled that a discriminatory *purpose*, as well as a discriminatory result, was necessary for an Equal Protection Clause violation.

Rogers v. Lodge, 458 U.S. 613 (1982).
The Supreme Court reaffirmed its ruling requiring a discriminatory purpose, but also upheld a lower court ruling of unconstitutional multimember districting.

Thornburg v. Gingles, 478 U.S. 30 (1986).
The Supreme Court applied the new Voting Rights Act language for racial multimember district violation, which necessitated only looking to discriminatory *results*.

REPORT AND PROPOSED PLAN

OF THE

GOVERNOR'S ADVISORY

REAPPORTIONMENT BOARD

JUNEAU, ALASKA

JULY 15, 1991

SINGLE-MEMBER HOUSE DISTRICTS

Previous redistricting of the Alaska Legislature, including the first apportionment, included both multi-member and single-member districts. However, successive reapportionments increased the number of single-member districts.

In Egan v. Hammond, the Alaska Supreme Court held that the authority to create single-member districts from multi-member districts was inherent in the governor's general power to reapportion the legislature.

In Groh v. Egan, appellants contended that Anchorage should not be divided into six election districts, arguing that Anchorage was one integrated socio-economic area that should not be fragmented. The court rejected that argument, stating:

> **We do not construe the Alaska constitutional requirement that districts be formed from contiguous, compact, relatively integrated socio-economic areas to prohibit smaller districts within such areas.[46]**

The court pointed out that:

> **The Advisory Board was confronted with competing policy considerations with reference to the desirability of keeping the ballot simple, encouraging qualified candidates to run for public office, and ensuring maximum voter participation, as opposed to avoiding undue fragmentation of the community.[47]**

The court upheld the Anchorage districting, stating that:

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[46] Groh, p. 880.
[47] Groh, p. 880.

While substantial arguments have been advanced both for and in opposition to the Board's decision, we cannot say that it is not based on rational as opposed to arbitrary considerations.[48]

In Kenai Peninsula Borough v. State, appellants challenged the combination of single-member House Districts 6 and 7 with multi-member House district 16 to form the infamous multi-member "Doughnut" Senate district E. The court noted that "separating any multi-member district would create more compact districts, but requiring the governor to use single-member districts would infringe on his authority."[49]

However, the court found that the Board's inclusion of South Anchorage House District 7 in the multi-member "doughnut" Senate district E was for the purpose of discriminating against Anchorage voters, which resulted in decreased proportionality of geographic representation in the legislature.

If North Kenai-South Anchorage District 7 had been combined with Prince William Sound District 6 in a single-member senate district, Anchorage could possibly have elected another senator. The degree of overrepresentation that this would have provided for Anchorage was slightly less than the degree of underrepresentation the inclusion of House district 7 in the "doughnut" Senate district was intended to cause.

The court declared old Senate district E unconstitutional, but held the declaration it was unconstitutional adequate remedy because the degree of discrimination was minimal. The court kept the "doughnut" intact.[50]

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[48] Groh, p. 880.
[49] Kenai, p. 1365, fn 21.
[50] Kenai, p. 1373.

The Hammond Board maintained that testimony had been overwhelmingly in favor of single-member districts. Furthermore, the Board had declared that single-member districts were the goal. Although progress was made toward that goal, the Hammond Board actually proposed (and Governor Hammond later adopted) a mixture of single and multi-member districts.[51] The director of the Hammond Board explained in conversations with this Board's director and counsel that it was deemed impossible to construct single-member districts in densely populated urban areas with the data and technology available to the Hammond Board in 1981.

The United States Supreme Court has held that, when federal "district courts are forced to fashion apportionment plans, single-member districts are preferable to large multi-member districts as a general rule."[52]

In the case of Chapman v. Meier, a number of reasons for favoring single-member districts were set out by Circuit Judge Bright in a dissenting opinion as follows:

> **(1) It gives a voter a chance to compare only two candidates, head to head, in making a choice.**
>
> **(2) It prevents one political party with a healthy plurality in one or two potential districts from dominating other potential districts that might narrowly go for the candidate of the opposite party.**

---

[51] "Reapportionment and Redistricting Plan for the Alaska State Legislature" dated June 10, 1981, Governor Jay Hammond's Advisory Reapportionment Board, pp. 17-19.

[52] Conner v. Johnson, 402 U.S. 690, p. 692 (1971).

(3) It prevents a city wide political organization from ostracizing or disciplining a legislator who dares stray from the machine's line.

(4) It permits a citizen to identify a legislator as his senator and makes direct communication easier.

(5) It makes each senator responsible for his actions and makes it difficult for a senator to fade into the ranks of "the team" to avoid being identified with specific actions taken.

(6) It reduces campaign costs and "personalizes" a campaign.

(7) It creates greater interest in the possibility of a citizen seeking a legislative seat without the political machine blessing.

(8) It would diminish the animosity created in the legislature against multi-senate districts because of the tendency of senators elected by one political party from a city to vote as a bloc.

(9) It would tend to guarantee an individual point of view if all senators are not elected as a team.

(10) It would equalize the power of people in single senate districts with the people in the broken down multi-senate districts to *influence* the *election of only one* senator.[53]

The Supreme Court referred to Judge Bright's dissent with approval when it reversed the District Court's establishment of multi-member districts. The Supreme Court declared that, "absent particularly pressing features calling for multimember districts, a United States district court should refrain from imposing them upon a State."[54]

Courts and commentators have recognized that candidates generally must spend more money in order to win election in a multi-

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[53] Chapman v. Meier, 372 F.Supp. 371, p.391 (D. N.D. 1974) (footnote omitted, emphasis in original), reversed, 420 U.S. 1 (1974). Hereafter referred to as "Chapman".

[54] Chapman, p.19.

member district than in a single-member district.[55] Single-member districts can have the benefit of increasing access to the political process for people protected by the Voting Rights Act.[56]

At public hearings and in written comments received after the 1991 guidelines were published for public comment, testimony *overwhelmingly* supported single-member districts, except for some testimony received from Southeast Alaska. The testimony the Board received from members of minority groups in Anchorage and rural Alaska favored single-member districts.

Little testimony was received during 1990, or at this Board's, public hearings from individuals opposed to single-member districts. At the February 20 hearing in Fairbanks two people testified that under an areawide multi-member district plan members of minority groups had been more successful than under the current mixture of single and multi-member districts in the Fairbanks area.

A review of election returns revealed that one Alaska Native (a Democrat) ran and lost in 1974. In 1972 an African-American (a Republican) did win a seat in the House from the at-large multi-member district in Fairbanks. The same African-American lost a close race for the Senate in 1974 and then lost a race for the House in 1976.

No minority candidate won an election under the at-large multi-member system in Fairbanks from 1974 through 1980. It is this Board's understanding that no minority candidates have run in the

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[55] Thornburg v. Gingles, 478 U.S. 30 (1986); Graves v. Barnes, 343 F.Supp. 70-4, pp. 720-21 (WD Tex. 1972), affirmed in part and reversed in part *sub nom.* White v. Regester, 412 U.S. 755, pp. 768-69, 93 S.Ct, pp.2340-2341.

[56] Alan L. Clem and W.O. Farber, "Manipulated Democracy: the Multi-member District", National Civic Review, Vol. 68, No.5, May 1979, pp. 235-243.

Fairbanks districts (old Nos. 18-21) since establishment of the current mixture of single and multi-member seats in 1982.

Other arguments advanced in favor of multi-member districts were: (1) whole communities would be better represented by at-large legislators; and (2) it would be more difficult for the Governor to veto district projects if the veto concerned more than one Representative or Senator.

At the final public hearing conducted by the Board in Juneau on May 28, 1991, five people testified against changing the dual-member district in Juneau. Several other people testified in favor of Juneau's dual-member district in writing and at previous hearings. Testimony suggested that an at-large multi-member district contributed to the unity of Juneau.

The Board does not consider creation of single-member districts to be antithetical to the goal of community unity in any area of Alaska.

For example, representatives of two individual Juneau districts should have no less incentive to work together to marshall state resources for the benefit of their constituents and pursue passage of legislation of interest to Juneau than the current representatives elected from a dual-member district have. Clearly, in a municipality such as Juneau, all residents will benefit from state-funded projects and services directed towards either of the two districts and from general legislation that benefits either district.

Creation of two districts in Juneau is also compelled by the necessity to align the southern portion of Juneau (No. 4) with the Southeast Islands District (No. 3), in order to retain a Southeast Senate

seat in which Alaska Natives are a strong influence group. This alignment prevents avoidable retrogression of minority voting strength as required by the federal Voting Rights Act of 1965, as amended, and fairly represents both urban and rural Alaska Natives in Southeast Alaska. It has the additional benefit of providing Juneau with representation by two Senators.

Based on (1) convincing reasons favoring single-member districts; and (2) overwhelming support expressed by the public in favor of this guideline, the Board has *uniformly* based the proposed redistricting plan on single-member districts.

tion deviation, the greater the importance of the state's interest; the more consistently the plan as a whole reflects the state's interest, the smaller the state's burden of proof.[14]

In 1992, the U.S. Supreme Court upheld the formula Congress has used for the past 50 years to apportion U.S. House seats among the states, declining to find that the system violates the one-man, one-vote standard, in spite of the fact that it does not conform perfectly to judicial standards for equal representation.[15]

State Legislative Districts

While the Court has not established set standards for acceptable state legislative district deviations, it has found that population deviations of almost eight percent did not establish a prima facie case of invidious discrimination[16] and that population variances of as much as ten percent were *de minimis* disparities that were not in need of state justification.[17] Greater deviations, however, might have to be explained, but would be permitted if the state could offer "a satisfactory explanation grounded on acceptable state policy."[18] Such legitimate state interests might include recognition of natural or historical boundary lines,[19] and the "desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory."[20] Federal law contains no requirement for compactness[21], and local compactness requirements may be overriden by a need for "branches" to achieve racial fairness and minority representation.[22]

While the challenger carries the burden of proving that a state legislative districting plan with less than a ten percent overall range violates the Equal Protection Clause, if the disparity exceeds ten percent, the state has the burden of showing that the range is necessary to implement a rational state policy and that the disparity does not dilute or diminish the voting strength of any specially protected groups.[23]

Even a plan with a maximum deviation of as much as 89 percent was upheld by the Court because the state justified the variance by pointing to its longstanding and neutrally applied policy of using counties as the state's basic units of representation.[24] However, the Court invalidated another plan with a population variance of 20 percent because there were no "significant state policies or other acceptable considerations that require adoption of a plan with so great a variance" advanced by the state.[25]

Local Government Districts

Local government redistricting is subjected to essentially the same standards as those applied to states, with the Court perhaps even more receptive to justifications for deviation from mathematical equality in local cases than in state redistricting.[26]

The courts now will hold more than just legislative bodies to the "one man, one vote" standard.[27] This requirement now applies "in drawing districts for units of local government having general governmental powers over the entire geographic area served by the body."[28] As a result, county governing boards,[29] county school boards,[30], city councils[31], and judicial districts[32] have been required to comply with redistricting standards.

Multi-Member Legislative Districts

While they may reluctantly permit certain types of such practices, the courts have not been particularly receptive to the concept of multi-member legislative districts. While multi-member districts are not unconstitutional *per se*, they are to be used in court-drawn plans only if there are insurmountable difficulties in doing otherwise,[33] if they

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afford minorities a greater chance to participate in the political process, or if significant interests would be advanced by multi-member districts and single-member districts would jeopardize constitutional requirements.[34]

Vote Dilution and the Voting Rights Act

Multi-member districts are among those subject to the "access to the political process" test, in which there must be affirmative discrimination shown against minority voting rights,[35] and, under the Voting Rights Act Amendments of 1982, it need not be intentional.[36] The challenger bears the burden of proving, through "the totality of circumstances,"[37] that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements.[38]

One of the principal reasons that the courts do not favor multi-member or at-large districts is because of their impact upon the votes of minorities. A redistricting plan that serves to minimize or cancel out the voting strength of racial or political elements of the voting population[39] or which is motivated by an intent to discriminate against the allegedly disadvantaged groups is unconstitutional.[40] The burden is on the plaintiffs to show that they do not have an equal opportunity to participate in the political processes and to elect candidates of their choice.[41] This may be done through the use of historical and contemporary evidence[42] or even through prospective interpolation that shows the expectation of future degradation.[43] Discriminatory intent does not need to be shown; a showing of discriminatory effect is dispositive.[44]

The courts, however, have refused to take racial subgroups into account in determining vote dilution claims; thus, a group of Hasidic Jews who claimed discrimination in a congressional redistricting case were held to have received adequate representation as whites, and the courts did not need to look further.[45]

The question that the courts will ask to determine unconstitutional vote dilution is whether a voting bloc majority was usually able to defeat candidates who were supported by a politically cohesive, geographically insular minority group.[46] The Supreme Court said that two factors would then come into play. If the minorities had actually had substantial difficulty in electing representatives of their choice and significant racial bloc voting had occurred, the test would be satisfied.[47]

A second type of discrimination may occur where "electoral arrangements [operate to] diminish a class' oppportunity to elect representatives in proportion to its numbers,"[48] by "packing" minorities into districts where they would constitute an excessive majority.[49] Precise numbers or percentages needed to prove or defend against discrimination claims may differ depending upon the circumstances.[50] For example, "supermajorities" may be required in situations where minority communities are characterized by a large number of noncitizens and lower voter registration rates.[51] The Supreme Court has never ruled as to whether it prefers a plan in which minorities are split into two districts in which they might have a reasonable chance of electing a representative in each district, or a plan in which minorities would definitely elect a representative in one of the districts and have a distant chance in the other.

Political Gerrymandering

The Supreme Court, in a groundbreaking pronouncement on redistricting cases, has held that a claim may be properly based upon the grounds of political gerrymandering--the dilution of votes by members of political or ideological groups.[52] Political discrimination

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THORNBURG v GINGLES
478 US 30, 92 L Ed 2d 25, 106 S Ct 2752

[478 US 30]
LACY H. THORNBURG, et al., Appellants

v

RALPH GINGLES et al.

478 US 30, 92 L Ed 2d 25, 106 S Ct 2752

[No. 83-.968]

Argued December 4, 1985. Decided June 30, 1986.

Decision: Certain multimember North Carolina state legislative districts held to impair ability of black voters to elect representatives, in violation of § 2 of Voting Rights Act (42 USCS § 1973).

SUMMARY

Black citizens of North Carolina who were registered to vote filed an action in the United States District Court for the Eastern District of North Carolina, alleging in part that the state had diluted black voting strength in violation of § 2 of the Voting Rights Act of 1965 (42 USCS § 1973) by enacting a redistricting plan for the state legislature which included a number of multimember districts (including House District 23) having substantial majorities of white voters in areas where there were sufficient concentrations of black voters to form single-member districts with black majorities. While the action was pending, an election was held in which black candidates in the areas in question had sharply greater success than in the past; at that point, black candidates had won one of the three positions from District 23, roughly proportional to the black population therein, in six consecutive elections, but in none of the other challenged districts had they had such success in more than three successive elections. A three-judge panel of the District Court (1) ruled that an intervening amendment to § 2 had removed any necessity that discriminatory intent be proven, leaving only the necessity to show a vote dilution effect, which could be found in the "totality of the circumstances" within which the challenged voting procedure operated; (2) held that such a showing had been made with regard to all of the challenged districts, in view of the court's findings (a) that single-member districts with black majorities could be created in the disputed areas, (b) that historic discrimination in voting and other areas had hindered black voter participation in the state, (c) that other continuing

SUBJECT OF ANNOTATION

Beginning on page 809, infra

Racial discrimination in voting, and validity and construction of remedial legislation

Briefs of Counsel, p 807, infra.

voting procedures also hindered blacks in electing candidates of their choice, (d) that white candidates had encouraged racial bloc voting by appealing to prejudice, (e) that black electoral success had been minimal in relation to the percentage of blacks in the state population, and (f) that statistical evidence showed severe and persistent racially polarized voting in the challenged districts; and (3) enjoined the state from conducting elections pursuant to those portions of the redistricting plan (590 F Supp 345). The state attorney general and others took a direct appeal from that decision to the United States Supreme Court.

On appeal, the United States Supreme Court affirmed in part and reversed in part (as to District 23). Although unable to agree on an opinion with respect to District 23, or with respect to whether the cause of racial bloc voting is relevant to the application of § 2, the court unanimously agreed that the District Court had not clearly erred in determining that the remaining districts violated § 2, while six members of the court agreed that the District Court's decision was erroneous with respect to District 23. In an opinion by BRENNAN, J., part of which (Parts I, II, III-A, III-B, IV-A, and V) constituted the opinion of the court, joined by WHITE, MARSHALL, BLACKMUN, and STEVENS, JJ., it was held (1) that the use of multimember districts generally will not impede the ability of minority voters to elect representatives of their choice so as to violate § 2, unless (a) the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district, (b) the minority group is politically cohesive, and (c) the white majority votes sufficiently as a bloc to enable it to usually defeat the minority's preferred candidate; (2) that a showing that a significant number of minority group members usually vote for the same candidates is one way of proving the requisite political cohesiveness; (3) that, in general, a white bloc vote that normally will defeat the combined strength of minority support plus white "crossover" votes rises to the level of legally significant white bloc voting; and (4) that the clearly erroneous test of Rule 52(a) of the Federal Rules of Civil Procedure is the appropriate standard for appellate review of a finding of vote dilution. With regard to causation, BRENNAN, J., joined by MARSHALL, BLACKMUN, and STEVENS, JJ., expressed the view that the legal concept of racially polarized voting, for purposes of a vote dilution claim, refers only to the existence of a correlation between the race of voters and the selection of certain candidates, and does not require that race be the cause of such a correlation, and that proof of causation or intent is thus not necessary in order to make a prima facie case of racial bloc voting nor relevant to rebut such a case. With regard to District 23, BRENNAN, J., joined by WHITE, J., expressed the view that the District Court had erred as a matter of law in ignoring the sustained success black voters had enjoyed in that district in determining whether black voting strength there had been diluted, and that the decision below should therefore be reversed in that regard.

WHITE, J., concurred, expressing the view that the race of the candidate is not irrelevant in determining whether there is polarized racial voting for purposes of § 2 analysis.

O'CONNOR, J., joined by BURGER, Ch. J., and POWELL and REHNQUIST, JJ., concurred in the result, expressing the view (1) that the majority's test for a vote dilution claim in multimember districts amounts to a requirement that minority representation usually be proportional to the minority group's proportion in the population, and thus is inconsistent with § 2's express rejection of any proportional representation requirement; (2) that a court hearing a vote dilution claim should consider all relevant factors bearing on whether the minority group has less opportunity than other members of the electorate to participate in the electoral process, as well as on their ability to elect representatives of their choice; (3) that a court must find that even substantial minority success will be highly infrequent before it may conclude, on that basis alone, that the plan cancels out or minimizes the voting strength of the minority group; (4) that statistical evidence of racial bloc voting, if admitted solely to show a minority group's political cohesiveness and to assess its chances for electoral success, cannot be rebutted by evidence attributing such bloc voting to causes other than race, but that such causation evidence is not always irrelevant to the overall vote dilution inquiry; (5) that the District Court's finding of severe racial bloc voting in all of the challenged districts, and its decision to give great weight to that finding, were not clearly erroneous; (6) that as to District 23, the District Court's failure to accord sufficient weight to black electoral success was clearly erroneous; and (7) that consistent and sustained success by candidates preferred by minority voters is presumptively inconsistent with the existence of a § 2 violation, but that in this case, except in regard to District 23, minority success was not sufficiently frequent to compel a finding of equal opportunity to participate and elect.

STEVENS, J., joined by MARSHALL and BLACKMUN, JJ., concurred in part and dissented in part, expressing the view (1) that the findings of the District Court adequately support its judgment concerning District 23; and (2) that while the election of one black candidate in District 23 in each of the last six elections provides significant support for the state's position, it does not create a conclusive legal presumption, and the District Court did not err in failing to apply such a presumption.

Sec. 29.23.010. General power. The legislative power of a borough is vested in the assembly. (§ 2 ch 118 SLA 1972)

Opinions of attorney general. — Under a former, similar provision the establishment of a department and of standards and procedures to be used in the exercise of an areawide power was a task for the borough assembly, in which was vested the general legislative power. 1962 Op. Att'y Gen., No. 9.

Under a former, similar provision the borough assembly might set up a board of health as an advisory board and be substantially guided by such a board of health in its exercise of the public health power, as long as the borough assembly was the body finally expressing the public health power. 1962 Op. Att'y Gen., No. 9.

To have permitted the borough chairman to serve on the borough assembly would have constituted a clear violation of a former similar provision, and would have violated the common-law prohibition against holding incompatible offices. 1963 Op. Att'y Gen., No. 27.

Under a former, similar provision a person elected to the positions of borough assemblyman and borough school board could properly exercise the powers, privileges and duties of both offices concurrently. 1963 Op. Att'y Gen., No. 27.

NOTES TO DECISIONS

Lack of a valid legislative body would not prevent the valid incorporation of a municipality. — This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body. Jefferson v. State, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. Jefferson v. State, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

Sec. 29.23.020. Composition, apportionment, and reapportionment. [Repealed, § 24 ch 83 SLA 1979.]

Sec. 29.23.021. Assembly composition and apportionment. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough. (§ 1 ch 83 SLA 1979; am §§ 3, 4 ch 128 SLA 1980)