

ALASKA LEGISLATURE COMMITTEE FILES 2001 2002 0012

10511 SENATE COMMUNITY & REGIONAL AFFAIRS

356

SB

109



ALASKA STATE LEGISLATURE

SENATOR JOHN TORGERSON

- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

Session:

State Capitol, Room 427, Juneau, AK 99801
Telephone 907/465-2828 Fax 907/465-4779

District:

45457 Kenai Spur Hwy.; Suite 101B, Soldotna, AK 99669
Telephone 907/260-3042 Fax 907/260-3044

SB 109 – Unincorporated Community Matching Grants **Sponsor Statement**

SB 109 revises the Unincorporated Community Capital Project Matching Grant Program by expanding the program to include unincorporated communities within boroughs and unified municipalities.

The communities that would be eligible are those with a population of 25 or more. They must also have received approval by the assembly for the respective borough or unified municipality for the "entity" that will administer the project for the community. Further, the project must receive the approval of the assembly.

The administering entity will be required to provide a local share that is the same as that required of the borough (under the Municipal Matching Grants Program) in which they are located.

Finally, the legislation changes the time line for which the funds are available from the current five years to four years for project start up.

SB 109 S(CRA) 2/24/01: mj

REPRESENTING THE KENAI PENINSULA

*Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo
Kusilof Lowell Point Moose Pass Nunwaluk Nikolaeusk Ninilchik Port Graham Ruzdolna Seward Seldovia Soldotna Stariski Sterling Voznesenka*



ALASKA STATE LEGISLATURE

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SB 109 - Unincorporated Community Matching Grants **Sectional Analysis**

Section 1: Amends AS 37.06.020(b) to include any eligible unincorporated community that meets the requirements of AC 37.06.020(d) and was a place in which 25 or more individuals resided as a social unit; deletes reference to revenue sharing statute.

Section 2: Amends AS 37.06.020(c) to read that a maximum of \$25,000 may be allocated to each eligible unincorporated community's account in a fiscal year. Adds clarifying language that if the appropriation is more than what is necessary to fully fund the individual allocations, the excess lapses into the general fund.

Section 3: Amends AS 37.06.020(d) to require the borough assembly's written approval of the administering entity for the unincorporated communities located within its boundaries.

Section 4: Amends AS 37.06.020(e) by inserting language that requires communities in a borough or unified municipality to receive approval of the respective assembly for projects under this program.

Section 5: Amends AS 37.06.020(h) to require start-up of the projects within four years, replacing the current five year time frame.

Section 6: Amends AS 37.06.030(b) to state that the local share for an unincorporated community located within a borough is calculated at the same rate as is the borough in which the community is located.

Section 7: Effective date of the bill.



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421
Fax: (907) 246-6602



POSITION PAPER

SENATE BILL 109

The Lake and Peninsula Borough strongly supports Senate Bill 109 which addresses inequities contained in the State Capital Matching Grant Program. This program, as presently structured and administered, discriminates against unorganized communities that are located in organized boroughs. This was not the intent of either the Hickel Administration or the Legislature when this program was originally adopted. However, the unfortunate result is that many unorganized communities are prevented from participating in this program in a meaningful way. This situation constitutes a powerful disincentive for new borough formation.

Unorganized communities located in the unorganized borough are presently guaranteed \$25,000 per year in capital matching funds under this program similar to that provided for municipalities. Unorganized communities located within organized boroughs are offered no such guarantee. In this case, the Borough receives a single grant for all of the unorganized communities within its boundaries. The grant amount is based upon the total population of all unincorporated communities combined. The borough itself receives the \$25,000 guarantee. The communities may or may not receive any of this money directly and if they do, it is likely to be significantly less than \$25,000. Many communities around the state are affected by this problem.

The Lake and Peninsula Borough is a good example of how significant this problem is. The Borough contains eleven unincorporated communities. Over the life of this program, the Borough has received annual grants ranging from between \$28,000 to \$44,000. This money must then be divided among eleven communities. This amounts to \$4,000 or less for each community. It is very difficult to do much with that amount of money and in effect, these communities do not have equal access to this very important state program.

If our communities received \$25,000 per year like unorganized communities in the unorganized borough, they would collectively receive \$275,000 per year instead of \$28,000. In short, this means that this oversight has cost borough communities approximately \$2,000,000 over the life of the program. This is money that could have been used for much needed capital and infrastructure improvements. It also means that our communities have a lesser amount of capital project funds at their disposal that could be used as a local cash match to leverage C.I.P. funds from other sources.

The Lake and Peninsula Borough urges you to support SB 109.

SB 109 Community Information

Senate District	Current Community	New Community	Borough
Senate District A	Hyder		
	Subtotal	0	
Senate District C	Edna Bay	Lutak	Haines
	Elfin Cove	Mosquito Lake	Haines
	Gustavus	Chiniak	Kodiak
	Hollis	Karluk	Kodiak
	Klukwan	Kodiak Station	Kodiak
	Naukali Bay	Womens Bay	Kodiak
	Point Baker	Game Creek	Hoonah
	Port Protection	Whitestone Logging	Hoonah
	Whale Pass	Annette	Metlakatla
		Meyers Chuck	Ketchikan
		Cube Cove	Angoon
	Subtotal	11	
Senate District D		Anchor Point	Kenai
		Clam Gulch	Kenai
		Cohoe	Kenai
		Cooper Landing	Kenai
		Crown Point	Kenai
		Fox River	Kenai
		Fritz Creek	Kenai
		Halibut Cove	Kenai
		Happy Valley	Kenai
		Hope	Kenai
		Jakolof Bay	Kenai
		Kalifonsky	Kenai
		Kasilof	Kenai
		Moose Pass	Kenai
		Nanwalek	Kenai
		Nikolaevsk	Kenai
		Ninilchik	Kenai
		Port Graham	Kenai
		Primrose	Kenai
		Ridgeway	Kenai
		Sterling	Kenai
	Subtotal	21	
Senate District E		Nikiski	Kenai
		Salamatof	Kenai
	Subtotal	2	
Senate District M		Eklutna	1 Anchorage
	Subtotal		
Senate District N		Alexander Creek	Mat-Su
		Big Lake	Mat-Su

SB 109 Community Information

Senate District				
	Mentasta Lake			
	Minto			
	Nelchina/Mendelina			
	Northway			
	Paxson			
	Rampart			
	Red Devil			
	Silvers Springs			
	Slana Community			
	Slana League			
	Sleetmute			
	Stevens Village			
	Stony River			
	Takolna			
	Tanacross			
	Tatitlek			
	Tazlina			
	Tetlin			
	Tok			
	Tolsona			
	Tuluksak			
	Venetie			
	Wiseman			
	Sub-Total	50		4
Senate District S				
	Pitka's Point		Prudhoe Bay	North Slope
	Tununak		Noatak	NWest Artic
	Newtok			
	Sub-Total	3		2
Senate District T				
	Akiachak		Nelson Lagoon	Aleutians E.
	Atmautluak		King Salmon	Bristol Bay
	Kasigluk		Naknek	Bristol Bay
	Kipnuk		South Naknek	Bristol Bay
	Koliganek		Chignik Lagoon	Lake & Pen
	Kongiganak		Chignik Lake	Lake & Pen
	Kwigillingok		Egegik	Lake & Pen
	Nikolski		Igiugig	Lake & Pen
	Oscarville		Iliamna	Lake & Pen
	Tuntutuliak		Ivanof Bay	Lake & Pen
	Twin Hills		Kokhanok	Lake & Pen
			Levelock	Lake & Pen
			Pedro Bay	Lake & Pen
			Perryville	Lake & Pen
			Port Alsworth	Lake & Pen
	Subtotal	11		15
TOTALS	Current	74	New	78
COSTS	FY 02: \$1.850 million		Added: \$1.95 million	

SB 109 Community Information

Senate District			New Community	Borough
	<u>Current Community</u>			
Senate District A	Hyder			
	Subtotal	1		
Senate District C	Edna Bay		Lutak	Haines
	Elfin Cove		Mosquito Lake	Haines
	Gustavus		Chiniak	Kodiak
	Hollis		Karluk	Kodiak
	Klukwan		Kodiak Station	Kodiak
	Naukai Bay		Womens Bay	Kodiak
	Point Baker		Game Creek	Hoonah
	Port Protection		Whitestone Logging	Hoonah
	Whale Pass		Annette	Metlakatla
			Meyers Chuck	Ketchikan
			Cube Cove	Angoon
	Subtotal	9		
Senate District D			Anchor Point	Kenai
			Clam Gulch	Kenai
			Cohoe	Kenai
			Cooper Landing	Kenai
			Crown Point	Kenai
			Fox River	Kenai
			Fritz Creek	Kenai
			Halibut Cove	Kenai
			Happy Valley	Kenai
			Hope	Kenai
			Jakolof Bay	Kenai
			Kalifonsky	Kenai
			Kasilof	Kenai
			Moose Pass	Kenai
			Nanwalek	Kenai
			Nikolaevsk	Kenai
			Ninilchik	Kenai
			Port Graham	Kenai
			Primrose	Kenai
			Ridgeway	Kenai
			Sterling	Kenai
	Subtotal		21	
Senate District E			Nikiski	Kenai
			Salamatof	Kenai
	Subtotal		2	
Senate District M			Eklutna	1 Anchorage
	Subtotal			
Senate District N			Alexander Creek	Mat-Su
			Big Lake	Mat-Su

SB 109 Community Information

Senate District			
			Butte
			Chase
			Chickaloon
			Knik
			Lazy Mountain
			Meadow Lakes
			Skwentna
			Sutton
			Talkeetna
			Trapper Creek
			Willow
		Subtotal	10
Senate District O			Ester
		Subtotal	0
Senate District Q			Cantwell
			Ferry
			Healy
			Lignite
			McKinley Park
			College
			Fox
			Harding Lake
			Moose Creek
			Pleasant Valley
			Salcha
			Two Rivers
		Subtotal	12
Senate District R	Arctic Village		Tyonek
	Beaver		Big Delta
	Birch Creek		Northway Junction
	Central		Tonsina
	Chalkyitsik		
	Chenega Bay		
	Chistochina		
	Chitina		
	Circle		
	Copper Center		
	Crooked Creek		
	Deltana		
	Dot Lake Services		
	Dot Lake Village		
	Dry Creek		
	Eagle Village		
	Evansville		
	Four Mile Rd Comm		
	Gakona		
	Glennallen		
	Gulkana		
	Healy Lake		
	Kenny Lake		
	Lake Minchumina		
	Lime Village		
	Manley Hot Springs		
	McCarthy		

SB 109 Community Information

Senate District				
	Mentasta Lake			
	Minto			
	Nelchina/Mendeltna			
	Northway			
	Paxson			
	Rampart			
	Red Devil			
	Silvers Springs			
	Slana Community			
	Slana League			
	Sleetmute			
	Stevens Village			
	Stony River			
	Takotna			
	Tanacross			
	Tatitlek			
	Tazlina			
	Tellin			
	Tok			
	Tolsona			
	Tuluksak			
	Venetie			
	Wiseman			
	Sub-Total	50		4
Senate District S				
	Pitka's Point			
	Tununak			
	Newtok			
	Sub-Total	3		2
Senate District T				
	Akiachak			
	Atmautluak			
	Kasigluk			
	Kipnuk			
	Koliganek			
	Kongiganak			
	Kwigillingok			
	Nikolski			
	Oscarville			
	Tuntutuliak			
	Twin Hills			
	Subtotal	11		15
TOTALS	Current	74	New	78
COSTS	FY 02: \$1.850 million		Added: \$1.95 million	

SB

110

Alaska State Legislature

DURING SESSION
STATE CAPITOL, ROOM 501
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
<http://www.akrepublicans.org/Bunde.htm>



DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

SPONSOR STATEMENT

CSSSHB 13 (JUP)

" An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas."

Alaska's Constitution provides for maximum local self-government (Art. X sec. 1) and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X sec. 5).

AS 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished.

Alaska has approximately 200 service areas; in these areas the local residents use private contractors for necessary services and assess themselves to pay for a desired level of service.

HB 133 amends, AS 29.35.450 to support local control by clearly identifying whom should vote on the abolishment and alteration of a service area under three scenarios:

1. **Abolishment of a service area.**
Subject to approval by the majority of the voters residing in the service area.
2. **Abolishment and replacement of a service area.**
Must be approved separately by a majority of voters inside an existing service area and by a majority of the voters residing in the proposed service area BUT OUTSIDE the existing service area.
3. **Alteration of service area or combining it with another service area.**
Must be approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in a proposed service area affected by the proposal.

This proposed legislation would settle a long time debate about who is entitled to vote during the creation, alteration or abolishment of a service area. This legislation has support throughout service areas in Alaska and I urge the favorable consideration of this committee.

Alaska State Legislature



DURING SESSION
STATE CAPITOL, ROOM 501
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
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WEB SITE
<http://www.akRepublicans.org/Bunde.htm>

REPRESENTATIVE CON BUNDE District 18

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

CHAIR: HOUSE SPECIAL COMMITTEE ON EDUCATION
VICE-CHAIR: HOUSE FINANCE COMMITTEE

Sectional Analysis CSSSHB 13 (JUD)

“An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas.”

Sec. 1. This adds AS 29.35.450 to the list of statutes that apply as limitations on the power to home rule municipalities. The result of this is to require home rule municipalities to adhere to AS 29.10.450, which now applies only to general law municipalities.

Sec. 2. This addresses service areas in unified municipalities and contains a cross-reference to subsection (c), added in this draft. There are three unified municipalities in the state: Anchorage, Juneau, and Sitka.

Sec. 3. This adds subsection (c) to AS 29.10.450 which requires, before a service area is expanded, a separate vote to be held in the area of the existing service area and in the area proposed to be added. A separate vote is also required when a service area is altered or combined with another service area. Before the service area change may occur it must be approved in each of the areas that votes separately on the question. This section does not apply to a proposed change to a service area that provides fire protection services that would result in increasing the number of parcels of land in the service area or successor service area if the increase is no more than six percent.

Sec. 4. Adds a new subsection to AS 29.35.470, which is not a home rule limitation. This allows borough assemblies to set up differential tax zones in service areas, so that different rates of taxes may be levied in different portions of a service area. Under existing law, only cities set up differential tax zones.

2001 Officers

Pres. Deborah Luper 694-7700
V. Pres. Charles Horsman 694-6502
Sec. Jim Yeargan 694-2571
Treas. Brian Fay 694-3293



2001 Directors

Carl Waters 696-8886
Dave Sellie 694-3283
Floyd Gori 694-6088

**EAGLE RIVER COMMUNITY COUNCIL
P.O. BOX 773952
EAGLE RIVER, ALASKA 99577**

14 February, 2001

Dear Representative Bunde,

Eagle River Community held its last meeting on February 8, 2001. At this meeting, HB 13 and SB 75, was reviewed and discussed by the council directors and members present. As a result, Eagle River Community Council passed a resolution to support the goals and intention to protect the autonomy of service areas including (but not limited to) road service areas, parks and recreation service areas, and fire protection service areas as set forth in HB 13 & SB 75.

Thank you for your efforts in sponsoring this bill. We are confident that you will be successful in passing this bill with enough votes to override any potential veto by the governor.

Respectfully,

A handwritten signature in black ink, appearing to read 'CH Horsman', written over a horizontal line.

Charles Horsman
Vice-President, Eagle River Community Council

cc: Representative Dyson
Representative Kohring
Representative Halerc
Representative Fate
Representative Coghill

CLERK'S OFFICE

APPROVED

Date: 1-30-01

NOTICE OF RECONSIDERATION WAS
GIVEN BY MS. CLEMENTSON 1-31-01

Submitted by: Assemblymembers ABNEY, Tesche
Prepared by: Assembly Office
For reading: JANUARY 30, 2001

*Reconsideration
Failed 2-06-01*

ANCHORAGE, ALASKA
AR NO. 2001- 26

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A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL 13, "AN ACT RELATING TO MUNICIPAL SERVICE AREAS AND PROVIDING FOR VOTER APPROVAL OF THE FORMATION, ALTERATION, OR ABOLISHMENT OF CERTAIN SERVICE AREAS".

WHEREAS, Alaska's Constitution provides for maximum local self-government (Art. X, Sec. 1), and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X, Sec. 5); and AS 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished; and

WHEREAS, Alaska has over 200 service areas - in these areas the local residents use private contractors for necessary services and assess themselves to pay for a desired level of service; and

WHEREAS, House Bill 13, sponsored by State Representative Bunde, amends AS 29.35.450 by:

- Clearly identifying who should vote under the following scenarios:

Abolishment of a service area - subject to approval by the majority of the voters residing in the service area.

Abolishment and replacement of a service area - must be approved separately by a majority of voters residing in an existing service area and by a majority of the voters residing in the proposed service area, but outside the existing service area.

Alteration of a service area or combining it with another service area - must be approved separately by a majority of the voters who vote on the question and reside in each of the service areas or in the proposed service area affected by the proposal.

This legislation will settle a long-time debate about who is entitled to vote during the creation, alteration or abolishment of a service area.

- Allowing for differential tax zones within a service area, thus allowing smaller areas to combine with larger service areas and to assess themselves at different levels within the combined area - achieving economies of scale and setting the level of service they need.

This legislation will result in fewer service areas and it will decrease the burden on municipal and borough governments.

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Page 2

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly supports House Bill 13.

Section 2: That, upon passage and approval, a copy of this resolution be forwarded to the State Legislature.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 30 day of January, 2001.

Fay Van Semmingen
Chair

ATTEST:

Liviana Ferguson
Municipal Clerk



Municipality of Anchorage

George P. Wuerch, Mayor



Chugiak-Birchwood-Eagle River Rural Road Service Area

Board of Supervisors

11901 Business Boulevard, Suite 107
Eagle River, Alaska 99577

FEB 06 REC'D

January 30, 2001

Representative Con Bunde
State Capitol, Rm. 501
Juneau, AK 99801

Re: Support for House Bill 13

Dear Representative Bunde:

At the January 22, 2001 of the Chugiak-Birchwood-Eagle River Rural Road Service Area Board of Supervisors, the Board unanimously passed a motion in support of House Bill 13. It is the opinion of the Board that this Bill will help strengthen service areas such as ours and ensure that the voting public has adequate say in the future of their service areas.

Sincerely,

Chris Ingmanson, Chair
Chugiak-Birchwood-Eagle River Rural Road
Service Area Board of Supervisors

Cc: Area Legislators
Assembly Member Anna Fairclough
Assembly Member Dan Kendall

February 2, 2001

Dear Chairman Rokeberg:

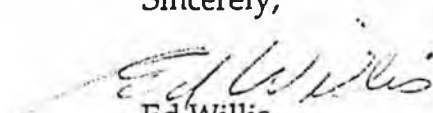
I wish to offer my support for HB 13, legislation that would help ensure the continuation of local service areas. As a member of the Greater Anchorage Area Borough Assembly (1966-1974), and a participant in the unification battles, I am familiar with the reason local service areas are provided for in the Anchorage Charter.

After the voters rejected two attempts at unification, service areas were provided for in the Charter that was eventually approved by the voters of Anchorage. The guarantee of local service areas was a necessary concession to residents outside the old city limits. Anyone who was involved in the process at the time could undoubtedly affirm that the charter would have been rejected a third time absent the provision for local service areas. Without the guarantee of local service areas, my community, South Anchorage, Spenard and other areas outside of the city would have voted to defeat the proposed charter in 1975. I believe that in one of the first votes in the early 1970's, fewer than a hundred votes were cast from the precincts in Chugiak-Eagle River in favor of unification. Opposition was simply that strong!

I have a local government background, and am generally against intrusions in local authority. I believe, however, that this legislation is different in that it seeks to protect local control, specifically volunteer-run local service areas. And in the case of Anchorage, you would be reinforcing a compact that was made when the charter was approved in 1975.

I appreciate the opportunity to express my views on an issue that is very important to my community. I wish you well in your deliberations.

Sincerely,


Ed Willis

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SSHB 13
 (H) Publish Date: 1/31/01

Revision Date/Time (Note if correction): 1/25/2001 1:20PM Dept. Affected: DCED
 Title: SERVICE AREAS: VOTER APPROVAL/ TAX ZONES BRU: Com. Asst.& Econ. Dev.
 Sponsor: Representative Bunde Component: Community and Business Development
 Requester: House CRA Committee Component Number: 2486

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation provides for voter approval of the formation, alteration, or abolishment of certain municipal service areas. This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland, Director Phone 907-269-4580
 Division: DCED, Community & Business Development Date/Time 1/25/2001 1:20PM
 Approved by: Commissioner Deborah B. Sedwick Date 1/25/2001
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

MATANUSKA-SUSITNA BOROUGH

350 East Dahlia Avenue, Palmer, Alaska 99645-6488

BOROUGH ATTORNEY'S OFFICE

Phone 745-9677 Fax 745-6070

FAX TRANSMITTAL PAGE

TO: John Torgerson

FIRM: _____

FAX NO: 907-465-4779 PHONE NO: _____

FROM: MICHAEL GATTI, BOROUGH ATTORNEY

DATE: 3-14-01

NO. OF PAGES (including cover): 10

REMARKS:

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Mike Little

Matanuska-Susitna Borough

Public Works Director

330 East Dahlia Avenue • Palmer, Alaska 99645-8488

PHONE (907) 745-8801 • FAX (907) 745-8825

E-MAIL: jsydnq@msb.co.mst-su.ak.us

MEMORANDUM

Law

DATE: February 21, 2001

TO: John Duffy, Borough Manager

FROM: Jim Swing, Public Works Director *JS*

SUBJECT: SSHB13 and SB75

As you know, the Borough Assembly postponed action on Resolution Serial No. 01-010, which if passed, would oppose sponsor substitute for House Bill 13 (SSHB13) and Senate Bill 75 (SB75) both of which relate to municipal service areas and provide for voter approval of the formation, alteration or abolition of such service areas. This memorandum presents some of my concerns regarding these bills:

The Matanuska-Susitna Borough is the fastest growing area of the State of Alaska, and as such, has one of the most active platting of new subdivisions in the state. Since some road service area boundaries have no apparent rationale, it would be quite common to have a new subdivision, which would be located in two different road service areas. With SSHB13 a vote of both service areas would be required to have this new subdivision placed in one or the other RSA's. This vote would not occur until the next regular election. In the mean time, the Borough could not maintain the roads in the subdivision. If these roads were built to borough standards, it would seem that there would be no detrimental effects on the RSA's from annexation or alteration.

An example of problems, which may occur, is the relocation of Trunk Road. Presently the existing Trunk Road serves as the boundary of RSA 9 and RSA 16 (south of the Palmer-Wasilla Highway) and RSA 25 and RSA 16, north of the Palmer-Wasilla Highway. When the new alignment of Trunk Road is constructed, some of the old portions may be abandoned. It would be logical and economical to alter the service areas so that the new Trunk Road alignment is the boundary for these RSA's. With SSHB13, this could not be done without a vote of three RSA's. Local government should be able to make minor adjustments to service areas in order to better and more economically serve the taxpayers of the borough.

Presently, if an area which is not located in a service area wishes to annex into an existing service area and the existing service area board of supervisors approve such an annexation, a vote of only the voters in the area annexing is required. This seems much more manageable and a more equitable solution than forcing all the voters in the existing service area to vote on the annexation. SSHB13 deprives the service area board of supervisors of one of the powers they now have.

- In the Matanuska-Susitna Borough, all road service areas have the same level of service for road maintenance. Only the mill levy varies per service area in order to pay for that level of service. Altering the service area boundaries or combining service areas to give a better level of service or a more economical service should be the assembly's prerogative.

cc: M. Gatti, Borough Attorney

Michael Gatti

From: Kevin Ritchie (kevinr@pobox.alaska.net)
Sent: Thursday, February 15, 2001 2:21 PM
To: Tom Boedaker (E-mail); mike gatti (E-mail); Mike Scott work (E-mail)
Subject: HB13 - SB 75 amendments



HB 13 - SB 75
 discussion OPTIO...

Tom, Mike, and Mike

Senator challenged us to come up with potential amendments to SB 75. Here are some ideas to start with. The Legislative Committee Chairs discussed an appeal process to LBC. We should talk and agree to a plan.

HB 13/SB 75 Re: DISCUSSION OPTIONS mandatory service area voting

The Senate sponsor Senator Halford, and CRA Committee Chair Senator Torgerson expressed willingness to work on amendments to make the bill acceptable to all parties. We are expected to respond by next week.

Options:

q **Delete Section 3:** This leaves the optional tool to set variable rates within service areas. Kevin Meyer and Al Kookash voted in favor of this on Ethan Berkowitz's motion in HJUD.

Pro/con: While it makes municipalities whole, it guts bill from sponsor perspective.

q **Exempt areawide consolidation votes:** Amend Section 3 as follows:

*Line 19 - This section does not apply to a proposed change to a service areas that provides fire protection or road maintenance services that would result in increasing the number of parcels of land in the service area or successor service area if the increase is no more than six fifteen percent, or the creation of areawide services or a municipal creation or consolidation that is voted on areawide.

Pro/con: Could be acceptable if key objective of sponsors is to avoid forced service area consolidation or "fiddling" without a vote. It does allow the whole municipality to vote and broadens the small changes ability.

q **Create an appeal process:** Delete section 3 and replace with an appeal process to the Local Boundary Commission based on a local appeal, then an appeal to the LBC. The difficult issue is the creation of standards for the LBC to review the appeal. Dan Bockhorst thought that such a process had been proposed in the early 70's and that it was feasible (though he was not speaking for the LBC of course). Dan mentioned the need for standards. The hard part is setting standards for review which could be problematic. They would likely have to be general such as: creates unfair tax burden on some residents or would result in a substantial deterioration of services.

Pro/con: Allows an objective 3rd party review similar to other types of municipal creations, but standards are hard to set.

q **Consider similar local ordinances to defuse the situation.**

Pro/con: Control will remain local. Legislature could make this part of sunset "condition".

q **Sunset the law in three years:** As far as we know, this is not an issue in municipalities in the near future with the exception of consolidation attempts in Ketchikan, Fairbanks, etc. This option might work especially if Section 3 was crafted to ensure that municipal consolidation votes were exempted.

Pro/con: Gives both sides a cooling off time to evaluate what local ordinances will pass, etc. Probably makes constitutional issues moot.

q **Pass the bill with a provision that allows municipalities to set up their own system if approved by an areawide vote after the date of the bill.** This allows municipal flexibility but ensures that local voters make a conscious choice. In the case of consolidation votes, this would allow voters to roll

Law

in consideration of service area issues.
Pro/con: Ensures local voter control, while Assembly control. Requires
municipal voters to consider issue on its merits.

Kevin Ritchie, Executive Director
Alaska Municipal League
office: 907-586-1325
Fax: 907-463-5480

FK

**MATANUSKA-SUSITNA BOROUGH****350 EAST DAHLIA AVENUE, PALMER, ALASKA 99645-0488
BOROUGH ATTORNEY'S OFFICE**

February 9, 2001

House Judiciary:**Chair: Representative Rokeberg****Vice Chair: Representative Ogan****Member: Representative James****Member: Representative Coghill****Member: Representative Meyer****Member: Representative Berkowitz****Member: Representative Kookesh****State Capitol****Juneau, Alaska 99801-1182****Re: Sponsor Substitute for House Bill 13****Dear Committee Members:**

At the February 6, 2001 teleconference on SSHB 13 you asked for an explanation of the constitutional principles implicated by the bill. First Article X, § 1 provides that there should be a maximum local self-government with a minimum of local government units to prevent duplication of tax levying jurisdictions. This section also provides that a liberal construction shall be given to the powers of local government units. SSHB 13 will have the effect of undermining the principles enumerated in this constitutional requirement by limiting the ability of municipalities to provide a maximum self-government with a minimum of local government units, since it will be extremely difficult to abolish, consolidate or alter service areas should the bill pass.

The Bill also implicates Article X § 2, which provides that all local government powers shall be vested in boroughs and cities. The service areas are not separate governments that should have ultimate responsibility for the provision of municipal services. *North Kenai Peninsula Road Maintenance Service Area v. Kenai Peninsula Borough*, 850 P.2d 636 (Alaska 1993). Instead service areas are individual taxing jurisdictions that allow for a higher or different level of service within that jurisdictional area. *Keane v. Local Boundary Commission*, 893 P.2d 1239 (Alaska 1995). SSHB 13 has the effect of vesting local government power in the service area and undermines the constitutional principle enumerated in Article X § 2.

February 9, 2001

Page 2

Article X § 5 pertaining to service areas is also implicated since this section provides that services areas to provide special services within an organized borough may be established, altered or abolished by the Assembly. It also provides that a new service area shall not be established if consistent with the purposes of this article the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. SSHB 13 also undermines this constitutional provision since it vests the ability to abolish, consolidate or alter a service area with a minority of individuals.

SSHB 13 impacts Article X, § 11 which provides that a home rule borough or a city may exercise all legislative powers not prohibited by law or by charter. SSHB 13 is regressive legislation that returns the State of Alaska to the archaic view of municipalities that they may not do anything except as specifically authorized by the legislature. In contrast, the basic constitutional format for municipalities in Alaska is broad construction of municipal powers, rather than narrow construction of municipal powers. SSHB 13 operates in contradiction to the important precepts enumerated above and is an unwarranted limitation of municipal authority. Instead of legislatively imposed limitations on the exercise of municipal power the legislature should defer to the local governing body to decide, on a local level, how best to operate in the public's interest on matters of local concern.

In a jurisdiction such as the Matanuska-Susitna Borough, which highly respects its service areas and supervisors, guidance for service areas is found in the Borough Code. MSB 5.15.015 sets forth duties of the Boards of Supervisors and provides:

DUTIES OF BOARDS OF SUPERVISORS

(A) Boards of supervisors for all service areas shall:

(1) after public hearing, recommend an annual budget to the manager, and

(2) make recommendations to the manager and the assembly on building programs, equipment acquisition and disposal, administrative policies and procedures, contracts, maintenance needs, and other matters as the manager or the assembly may request.

(B) In addition to those duties described in subsection (A), boards of supervisors of fire service areas shall also:

February 9, 2001

Page 3

(1) make recommendations to the manager and assembly on the appointment and supervision of volunteer fire chiefs appointed to administer the fire service area; and

(2) submit an annual efficiency report on volunteer fire chiefs to the manager.

(C) A board of supervisors for an area for which fire services are provided through contract may not make recommendations on the following:

- (1) whether the services should be provided by contract;
- (2) the terms of the contract;
- (3) the appointment, supervision, and efficiency of the fire chief; and
- (4) fees or other reimbursement paid to volunteers for firefighting duties.

The MSB also provides for a dual majority vote under certain circumstances pursuant to MSB 5.10.035 which provides:

ELECTION

(A) Ballot propositions proposing the establishment or the abolition of service areas shall be submitted only to the qualified voters residing within the proposed service area or the service area to be abolished.

(B) Ballot propositions proposing the annexation of territory to an existing service area shall be submitted only to the qualified voters residing within the area proposed for annexation. If, however, the assembly finds, based on public testimony and other information received in connection with consideration of an ordinance proposing modification of a service area and the analysis and recommendation of an existing board of supervisors having jurisdiction over the area in question, that the area affected by the proposed annexation includes the existing service area, the proposition must be approved by a majority of the voters within each area before it is effective. In determining the area affected by service area modification, the assembly shall consider its effect on the level of services, the cost of services, and public policy favoring maximum local self-government through a minimum of local government units.

February 9, 2001

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A similar rule appends to the alteration of service area boundaries set forth at MSB 5.20.005. This ordinance states:

ALTERATION OF SERVICE AREA BOUNDARIES

(A) Territory may be annexed to a service area in the same manner that territory can be made a service area under MSB 5.10.

(B) Territory may be deleted from a service area and a service area may be divided into two or more service areas by ordinance or by vote of the qualified voters living within the areas affected. Unless otherwise provided by the ordinance calling for an election on the question of deletion or division, a separate affirmative majority vote is required in the area to be deleted and in the area remaining in the case of a deletion, and in each of the proposed new service areas in the case of a division.

The Borough Assembly has also set forth rules pertaining to the consolidation and abolition of service areas which authorizes the consolidation of service areas by ordinance or authorizes the abolition of service areas by ordinance or by a vote of the qualified voters living within the service area in the same manner they may be established under MSB 5.10. See MSB 5.20.010 - 020. As evident, the Borough Assembly has adopted a comprehensive Code of Ordinances pertaining to the treatment of service areas within its boundaries. It has discretion to handle service areas either by ordinance or through a dual majority vote under certain circumstances and, as noted above, carefully considers the advice of the service area Board of Supervisors before formulating judgments on service area issues. SSHB 13 detracts from this local discretion to control local area decisions by providing unnecessary state mandates in an area where there is no problem to resolve.

February 9, 2001

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If you should have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gatti", with a long horizontal flourish extending to the right.

MATANUSKA-SUSITNA BOROUGH
Michael Gatti, Borough Attorney

MG/mz

cc: Mayor & Borough Assembly
John Duffy, Borough Manager

K:\SHARED\Office\ATTY\2-6-01 house judiciary memo.wpd

Alaska State Legislature



DURING SESSION
STATE CAPITOL, ROOM 501
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
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WEB SITE
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DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

REPRESENTATIVE CON BUNDE
District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

SPONSOR STATEMENT

CSS\$HB 13 (JUD)

" An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas."

Alaska's Constitution provides for maximum local self-government (Art. X sec. 1) and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X sec. 5).

AS 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished.

Alaska has approximately 200 service areas; in these areas the local residents use private contractors for necessary services and assess themselves to pay for a desired level of service.

HB 133 amends, AS 29.35.450 to support local control by clearly identifying whom should vote on the abolishment and alteration of a service area under three scenarios:

1. **Abolishment of a service area.**
Subject to approval by the majority of the voters residing in the service area.
2. **Abolishment and replacement of a service area.**
Must be approved separately by a majority of voters inside an existing service area and by a majority of the voters residing in the proposed service area **BUT OUTSIDE** the existing service area.
3. **Alteration of service area or combining it with another service area.**
Must be approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in a proposed service area affected by the proposal.

This proposed legislation would settle a long time debate about who is entitled to vote during the creation, alteration or abolishment of a service area. This legislation has support throughout service areas in Alaska and I urge the favorable consideration of this committee.

Alaska State Legislature



DURING SESSION
STATE CAPITOL, ROOM 501
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Representative_Con_Bunde@legis.state.ak.us

REPRESENTATIVE CON BUNDE District 18

CHAIR: HOUSE SPECIAL COMMITTEE ON EDUCATION
VICE-CHAIR: HOUSE FINANCE COMMITTEE

Sectional Analysis CSSSHB 13 (JUD)

“An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas.”

Sec. 1. This adds AS 29.35.450 to the list of statutes that apply as limitations on the power to home rule municipalities. The result of this is to require home rule municipalities to adhere to AS 29.10.450, which now applies only to general law municipalities.

Sec. 2. This addresses service areas in unified municipalities and contains a cross-reference to subsection (c), added in this draft. There are three unified municipalities in the state: Anchorage, Juneau, and Sitka.

Sec. 3. This adds subsection (c) to AS 29.10. 450 which requires, before a service area is expanded, a separate vote to be held in the area of the existing service area and in the area proposed to be added. A separate vote is also required when a service area is altered or combined with another service area. Before the service area change may occur it must be approved in each of the areas that votes separately on the question. This section does not apply to a proposed change to a service area that provides fire protection services that would result in increasing the number of parcels of land in the service area or successor service area if the increase is no more than six percent.

Sec. 4. Adds a new subsection to AS 29.35.470, which is not a home rule limitation. This allows borough assemblies to set up differential tax zones in service areas, so that different rates of taxes may be levied in different portions of a service area. Under existing law, only cities set up differential tax zones.

2001 Officers
Pres. Deborah Luper 694-7700
V. Pres. Charles Horsman 694-6502
Sec. Jim Yeargan 694-2571
Treas. Brian Fay 694-3293



2001 Directors
Carl Waters 696-8886
Dave Sellie 694-3283
Floyd Gori 694-6088

EAGLE RIVER COMMUNITY COUNCIL
P.O. BOX 773952
EAGLE RIVER, ALASKA 99577

14 February, 2001

Dear Representative Bunde,

Eagle River Community held its last meeting on February 8, 2001. At this meeting, HB 13 and SB 75, was reviewed and discussed by the council directors and members present. As a result, Eagle River Community Council passed a resolution to support the goals and intention to protect the autonomy of service areas including (but not limited to) road service areas, parks and recreation service areas, and fire protection service areas as set forth in HB 13 & SB 75.

Thank you for your efforts in sponsoring this bill. We are confident that you will be successful in passing this bill with enough votes to override any potential veto by the governor.

Respectfully,

A handwritten signature in black ink, appearing to read 'Charles Horsman', with a long horizontal line extending to the right.

Charles Horsman
Vice-President, Eagle River Community Council

cc: Representative Dyson
Representative Kohring
Representative Halcro
Representative Fate
Representative Coghill

CLERK'S OFFICE

APPROVED

Date: 1-30-01

NOTICE OF RECONSIDERATION WAS
GIVEN BY MS. CLEMENTSON 1-31-01

Submitted by: Assamblymembers ABNEY, Tescha
Prepared by: Assembly Office
For reading: JANUARY 30, 2001

*Reconsideration
Filed 2-06-09*

ANCHORAGE, ALASKA
AR NO. 2001- 26

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**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL
13, "AN ACT RELATING TO MUNICIPAL SERVICE AREAS AND PROVIDING FOR VOTER
APPROVAL OF THE FORMATION, ALTERATION, OR ABOLISHMENT OF CERTAIN SERVICE
AREAS".**

WHEREAS, Alaska's Constitution provides for maximum local self-government (Art. X, Sec. 1), and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X, Sec. 5); and AS 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished; and

WHEREAS, Alaska has over 200 service areas - in these areas the local residents use private contractors for necessary services and assess themselves to pay for a desired level of service; and

WHEREAS, House Bill 13, sponsored by State Representative Bunde, amends AS 29.35.450 by:

- Clearly identifying who should vote under the following scenarios:
 - Abolishment of a service area - subject to approval by the majority of the voters residing in the service area.
 - Abolishment and replacement of a service area - must be approved separately by a majority of voters residing in an existing service area and by a majority of the voters residing in the proposed service area, but outside the existing service area.
 - Alteration of a service area or combining it with another service area - must be approved separately by a majority of the voters who vote on the question and reside in each of the service areas or in the proposed service area affected by the proposal.
- This legislation will settle a long-time debate about who is entitled to vote during the creation, alteration or abolishment of a service area.
- Allowing for differential tax zones within a service area, thus allowing smaller areas to combine with larger service areas and to assess themselves at different levels within the combined area - achieving economies of scale and getting the level of service they need.
- This legislation will result in fewer service areas and it will decrease the burden on municipal and borough governments.

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Page 2

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly supports House Bill 13.

Section 2: That, upon passage and approval, a copy of this resolution be forwarded to the State Legislature.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 30 day of January, 2001.

Fay Von Hennings
Chair

ATTEST:

Lynne Ferguson
Municipal Clerk



Municipality of Anchorage

George P. Wuerch, Mayor



Chugiak-Birchwood-Eagle River Rural Road Service Area Board of Supervisors

11901 Business Boulevard, Suite 107
Eagle River, Alaska 99577

FEB 06 REC'D

January 30, 2001

Representative Con Bunde
State Capitol, Rm. 501
Juneau, AK 99801

Re: Support for House Bill 13

Dear Representative Bunde:

At the January 22, 2001 of the Chugiak-Birchwood-Eagle River Rural Road Service Area Board of Supervisors, the Board unanimously passed a motion in support of House Bill 13. It is the opinion of the Board that this Bill will help strengthen service areas such as ours and ensure that the voting public has adequate say in the future of their service areas.

Sincerely,

Chris Ingmanson, Chair
Chugiak-Birchwood-Eagle River Rural Road
Service Area Board of Supervisors

Cc: Area Legislators
Assembly Member Anna Fairclough
Assembly Member Dan Kendall

We must maintain local control of service areas

By Sen. Rick Halford

I am currently in the process of drafting legislation (similar to the previously introduced House Bill 13) that would help ensure continuation of local service areas. For Chugiak-Eagle River, that means preserving local control of Parks and Recreation, road service, fire protection and emergency medical services.

A key component of the Charter that unified the City of Anchorage and the old Anchorage Borough (after two previous defeats) was the guarantee of local service areas. This was to allow outlying areas of the municipality the ability to determine the level of local services appropriate to their neighborhoods.

In Chugiak-Eagle River, our Parks and Recreation and rural road service areas have delivered services commensurate with the level that residents want. The service offered by Chugiak, Birchwood, Eagle River Rural Road Service Area is the envy of our city neighbors. While they get recorded messages that assures them they will be plowed out within 72 hours, our streets are usually cleared within the first day after a snowfall. And because of the dedicated work of our volunteer directors, and through the efficiencies of private sector contracting, we are able to accomplish basic road maintenance

and ongoing road and drainage improvements at a lower mill rate assessment to property owners.

Similarly, the northern end of our community is in a local service area served by the Chugiak Volunteer Fire Department. I am somewhat perplexed by the recent objections from the municipality that the CVFD does not charge for the ambulance services they provide. This fails to recognize that CVFD's EMTS are volunteers. The elected supervisors for the CVFD should have every right to not charge, or perhaps charge a lower rate. It seems only logical to pass along the savings accrued by not having to meet the payroll of a union represented, paid fire department.

To
the  Point



Education

Education will again be at the top of the agenda of this Legislature. This session the high school exit exam has already been the subject of considerable debate. Most Alaskans continue to favor some type of standard that will provide assurance that a student receiving a diploma has achieved proficiency in the subjects they have been taught. The state Board of Education spent more than a million dollars developing the exam, which tests subject matter not required for graduation. Therefore many reasonably question what would be achieved by simply following their recommendation to delay enforcing any standards until 2006. Practical changes need to be made, and

'The service offered by Chugiak, Birchwood, Eagle River Rural Road Service Area is the envy of our city neighbors.'

I certainly welcome involvement by those of you who will be most affected by this issue.

On the local front, a second high school for our community remains a top priority of the legislative delegation.

Natural gas pipeline

The debate over the construction of the gas pipeline has been thrust forward by many encouraging factors. Price, or economics, still remains the most critical factor. The current price of natural gas has been up, and has held steady. The administration and legislative leaders also appear to agree that any proposal coming south from the North Slope will probably be acceptable if economically feasible, while proposals to transport gas to the east directly into Canada from the North Slope will not be acceptable.

Finally, the looming energy crisis in the Lower 48 states, most notably California, has accentuated the need for reliable and affordable North Slope natural gas. The North Slope natural gas pipeline would not only bring increased revenue and jobs to the state (although much less than North Slope oil) but would ideally make needed natural gas available to residents of Alaska.

Rick Halford (R-Eagle River) is president of the Alaska Senate.



Star LIGHT

A lighthearted look at things

by LEE JORDAN

Service districts give local folks degree of control

When Ed Willis a couple of weeks ago saw the story about City Hall wanting to do away with the free ambulance ride for people transported by Chugiak medics, it was a call to arms. He and some other folks who were involved in the discussions that led to Anchorage's Home Rule Charter reacted like old-time fire horses. Enjoying a life of leisure and no longer called upon to rush the firefighting equipment to the scene of an emergency, they still feel the call to duty whenever the alarm rings.

Debating the threat to service areas, Ed brought up the recent feat of now-retired World War II sailors who overhauled a landing craft at its resting place in Greece, making it ship-shape and sailing it home to the States. Their story tweaked the pride in veterans all over the country, showing they can still do the job they learned to do when responding to the defense of their country.

The problem with our new challenge is slightly similar to what those intrepid old salts ran into. Not too many people remember the part the landing craft played in that war and the danger those crews faced as they ferried invasion troops from their transports to the beaches of the Pacific and at Normandy. The boats were built quickly as America rose to meet the challenges of war, they were sturdy and continued to serve in commercial ventures around the world once the invasions were a thing of the past. But 55 years later, those

exploits have long been forgotten. The history of hard-fought battles are confined to musty pages in dark archives, recounted only occasionally by students of that war and sometimes coming to light in an obituary of one of those heroes.

Just what is a service area? You may well be asking that question after seeing me rail in recent editorials about the threat.

The state constitution allows for service areas to be created by citizens who wish to provide a service for themselves that cannot be provided by the existing government.

Excellent examples of that concept can be found in Chugiak-Eagle River.

The first to be created was the Chugiak fire service area. It was seen by local residents as the ideal solution to the need for fire suppression and emergency medical service. Initially, the volunteer fire department had operated, using scrounged equipment, strictly on private donations and a steady stream of fundraisers. There was never enough money to make needed repairs, buy the gas and keep the firehouses warm enough for the trucks to start and keep the water in liquid form in winter.

But when the Greater Anchorage Borough was formed as one of seven mandatory boroughs created by legislative fiat in 1964, the possibilities were immediately evident. A proposition was put on the ballot at the request of Chugiak residents. It passed handily.

Part of the reason it passed was that the tax rate was reasonable. Even more laudable was the fact that it provided for an elected board of supervisors who would oversee the budget and serve as the liaison between the volunteer

fire department, the community and the borough assembly. How the service was operated was up to the people in Chugiak. It has worked well for 37 years. The district has four fire stations housing a large fleet of modern equipment. That equipment was bought for cash under a no-debt philosophy established at the beginning.

Chugiak-Eagle River has one of many separate road service districts within the municipality. It is overseen by a board of supervisors whose membership is designated by local community councils. Its work is accomplished by contractors. The tax rate is lower than charged in the Anchorage Bowl where work is done by city crews. How well does it work? After a snow storm, local roads are plowed within 24 hours. In the city, they take up to 96 hours to clear residential streets.

Parks and Recreation is another local service area. Again, a local board sets policy. Assistance is given to local non-profit groups who help provide the services, although maintenance is done by city crews. We happen to have some major park facilities located at Beach, Edmonds and Mirror lakes. They and the McDonald Center are supported from taxes collected in Chugiak-Eagle River but are heavily used by residents from a much wider area.

Those service areas are working just fine, so what's the big deal?

The deal is that City Hall doesn't like bothering with local groups. They figure that it's all one municipality, so all the services should be the same. They argue that people who pay

a lower tax rate are getting a free ride, just like those patients who aren't charged for emergency transportation by the unpaid volunteers. City Hall argues that having separate districts is a bookkeeping nightmare; they completely overlook the fact that they rake off more than one-third of all our tax payments to cover their exorbitant administrative costs.

And City Hall believes that now government can provide the services it could not provide 37 years ago. To the downtown bureaucracy, tailored service and commensurate tax rates are of no importance.

The reality is that they want us to pay more and they want to get rid of service areas that do a better job for less. We're an embarrassment.

So it's little wonder that folks who took a part in seeing that service areas were provided for in the city charter are ready to get back in the traces to fight this threat. It took three tries for the charter to gain voter approval. It would not have passed in 1975 without the assurance that service areas would continue.

The Legislature currently is debating a bill introduced by Rep. Con Bunde that would require approval of residents within a service area before it could be created, altered or abolished. He represents the Hillside area, the first victim of forced annexation through a gerrymandered election.

Protection against further violations of the municipal charter and existing state law are needed.

Without such protection, these old fire horses are apt to break loose and head for the scene of the inferno. And I'll be right in the midst of them.

Lee Jordan is a consultant to the Alaska Star.



February 1, 2001

2278 Outside Blvd
North Pole, Alaska 99705-6307
907 488-3143

Rep. Con Bunde
Alaska State House of Representatives
Juneau, AK

Dear Rep. Bunde,

Thank you for the information on HB 13. As a service commissioner of Brookside Service Area, I fully support passage of this Bill. As a new commissioner, (Since June of 2000), I was under the impression that this bill was passed in last years Legislative session. Little did I realize that Governor Knowles vetoed this bill after the Legislature adjourned.

I agree that requiring the new service area and the existing service area to vote by majority to form a larger or combined service area is necessary. I feel very uncomfortable with the Fairbanks North Star Borough determining taxation levels in the event of a new combined service area. Keeping control within the service areas to determine how our funds are spent should be a made by the residents of the service area, not the Borough.

Once again, thank you for pushing HB 13 once again. You have my support and confidence in getting this important piece of Legislation passed, and keeping the people of Brookside Service Area free to provide a voice in our government.

Sincerely,

James A. Young
Commissioner
Brookside Service Area, FNSB

February 2, 2001

Dear Chairman Rokeberg:

I wish to offer my support for HB 13, legislation that would help ensure the continuation of local service areas. As a member of the Greater Anchorage Area Borough Assembly (1966-1974), and a participant in the unification battles, I am familiar with the reason local service areas are provided for in the Anchorage Charter.

After the voters rejected two attempts at unification, service areas were provided for in the Charter that was eventually approved by the voters of Anchorage. The guarantee of local service areas was a necessary concession to residents outside the old city limits. Anyone who was involved in the process at the time could undoubtedly affirm that the charter would have been rejected a third time absent the provision for local service areas. Without the guarantee of local service areas, my community, South Anchorage, Spenard and other areas outside of the city would have voted to defeat the proposed charter in 1975. I believe that in one of the first votes in the early 1970's, fewer than a hundred votes were cast from the precincts in Chugiak-Eagle River in favor of unification. Opposition was simply that strong!

I have a local government background and am generally against intrusions in local authority. I believe, however, that this legislation is different in that it seeks to protect local control, specifically volunteer-run local service areas. And in the case of Anchorage, you would be reinforcing a compact that was made when the charter was approved in 1975.

I appreciate the opportunity to express my views on an issue that is very important to my community. I wish you well in your deliberations.

Sincerely,


Ed Willis

P.O. Box 81109
Fairbanks, AK 99708-1109
(907) 479-4394

January 19, 2001

Rep. Con Bunde
Alaska State House of Representatives
Juneau, AK

Dear Rep. Bunde,

I have been on the Viewpointe Service Area Commission since 1981, and chairman since 1983. Also, since 1982, I have been employed driving a heating oil delivery truck throughout many of the service areas and the neighborhoods not in service areas around the Fairbanks North Star Borough. Road improvements brought about by service areas greatly enhance safe driving and make living outside the city of Fairbanks much more enjoyable than prior to their existence. Usually service area roads are in as good or better condition than the roads in downtown Fairbanks, especially during winters with heavy snow.

I strongly support HB 13 that you have filed for the 2001 session of the Alaska State Legislature. The changes in Alaska State Law provided by this bill will alleviate some serious problems experienced when new neighborhoods join existing service areas. After reading the bill it looks very similar, if not identical, to a bill filed by you last year (2000), HB 133. I wrote a letter in support of that bill also. I hope the Governor will see fit to sign the bill this year.

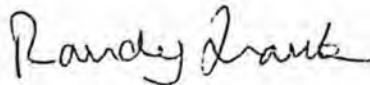
Presently the Fairbanks North Star Borough does not want to add to the high number of existing service areas. New neighborhoods that want to better maintain or improve their roads by using the Borough as a vehicle to collect taxes for these improvements are forced to join existing service areas. The process we have now is very unfair and undemocratic, since only the residents of the area that is seeking to join an existing service area are allowed to vote on the issue. The residents of the existing service area are given no voice in the process. In the past this process has resulted in well run and financially sound service areas being forced to absorb another neighborhood sometimes not contiguous and always with roads that are in poor condition, needing many dollars to upgrade to meet Borough standards. In all these cases, tax money from the existing service areas has gone to the new areas for road improvements because there cannot be two levels of road conditions within a single service area. Sometimes property taxes had to be raised in the older part of the service area along with the new part to cover the road improvement costs of the new part. The existing process naturally creates ill feelings and tension between the residents of the old and the new parts of the newly merged service area, often putting the commissioners, who are just trying to do their jobs, in the middle.

America does have a history of wealth redistribution, especially in the last eight years, to make the country supposedly a better place, but the wealthy residents of our country have always been allowed a vote in the process. As it is now in the State of Alaska, the residents of the existing service area have no vote and could very likely see their tax dollars go to improving roads that they do not even drive on. The residents of existing service areas, who have been left out of the voting process, often angrily turned to the FNS Borough Assembly to stop the whole the process. When the existing service area residents were successful, the new neighborhood was left with no efficient way to collect funds to improve their roads and make them safer to drive on.

House Bill 13 provides a solution for this unjust situation. Not only does it allow both the residents of the new and existing parts of a combined service area to vote on the merger; it allows for differing levels of taxation within the newly formed service area. Two levels of taxation would allow the new part of the service area to temporarily have a higher tax assessment to defray the costs of improvements needed to upgrade the roads in the new part of the service area. This seems to me to be a fair and reasonable solution to what is now a very unfair and unreasonable process.

In 1999, Fairbanks North Star Borough Mayor Hank Hove introduced a plan that would set up a loan fund to allow newer parts of merging service areas to borrow from it to speed up their improvement schedule, if HB133 was passed and signed into law in 2000. Since we now have a new Mayor, Rhonda Boyles, and new leadership on the Assembly, I do not know if this loan fund will still be available. I thought it was a great idea, and will be urging the new Assembly and Mayor Boyles to bring this idea forward again if HB13 becomes law. Some of us commissioners met with Mayor Boyles about this service area problem before she was elected, and since Ms. Boyles is a former commissioner herself, she was very receptive to our suggestions for a solution.

Sincerely,



Randy Frank
Chairman
Viewpointe Service Area

Cc: Governor Tony Knowles
Sen. Gary Wilken
Sen. Pete Kelly
Sen. Gene Therriault
Rep. John Davies
Rep. Hugh Fate
Rep. Eldon Mulder
Rep. Lisa Murkowski
FNSB Mayor Rhonda Boyles

SB

175

REVISED: APR. 25, 2001
Wid

FISCAL NOTE

STATE OF ALASKA
 2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 175
 () Publish Date: _____

Revision Date/Time (Note if correction): April 25, 2001, 9 a.m. Dept. Affected: Revenue
 Title: Municipal Protests of Gaming Permits BRU: Revenue Operations
 Component: Tax Division

Sponsor: Senator Elton
 Requester: Senate Community and Regional Affairs Component Number: 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *	5.0 - 10.0 *

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* This fiscal note anticipates that one or two charitable gaming license cases would go to formal hearing each year. The \$5.0 to \$10.0 contractual expense is to cover the cost of a contracted hearing officer for those cases. The actual costs would vary and the actual number of cases would determine the amount needed.

Prepared by: Carl Meyer Phone 465-2343
 Division: Tax Division Date/Time April 24, 2001, 1:30 p.m.
 Approved by: Larry Persily, Deputy Commissioner Date 04/25/2001
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

Department of Revenue Fiscal Note and Bill Analysis

SB 175 — April 25, 2001

- **Section 1** amends AS 05.15.030(a) to permit a municipality to protest, by resolution, the issuance of a permit or license to an applicant for the authority to conduct a gaming activity within the jurisdiction of the municipality, or to recommend conditions to be placed on the permit or license. The resolution must state the reasons for the protest. The Department of Revenue shall deny the permit or license, or condition the permit or license as recommended by the resolution, unless the department finds following a hearing that the protest or conditions are arbitrary, capricious or unreasonable, or that the conditions conflict with state law.

A municipality may file a protest with the department only after it has provided the applicant a hearing to present a defense (*Line 11, Page 1*). Although we believe the sponsor intends that this first hearing be held by the municipality, and not the department, it is not entirely clear in the draft legislation, and we recommend that the language be clarified.

The department then must hold its own hearing on the municipality's protest against the license issuance or renewal (*Line 3, Page 2*).

- **Section 2** provides that a municipality holding a license or permit that competes with the applicant may only protest the issuance of the permit or license based upon the applicant's failure to pay municipal taxes, and may not otherwise recommend conditions on the permit or license.

Analysis

The draft bill as written would require two hearings. The first hearing would be at the municipal level. Following that hearing, a municipality may protest the license issuance or renewal to the department. That would then initiate a second hearing — this time at the department level — to consider the protest.

Each department hearing will require a hearing examiner to hear, decide and issue a written decision in the matter. Each hearing will also require an appeals officer from the Tax Division, as well as a representative from the Gaming Section. There are more than 1,000 licensed organizations statewide, authorized to conduct charitable gaming, and more than 40 licensed operators and multiple-beneficiary permittees in business across the state. The volume of protests, and therefore the volume of hearings, generated by this legislation could be sizable, although we do not expect that municipalities would protest very many licenses.

Under this draft legislation, the department must deny the application unless it finds a protest or recommended conditions to be arbitrary, capricious or unreasonable. The department would prefer more parameters within the legislation to direct us in deciding these cases. We believe any adverse decision to an applicant is likely to be litigated, considering the department's experiences with the gaming industry.

The legislation also would allow municipalities to recommend conditions for a permit or license, something that the department finds problematic. This will have the effect of inserting the state between disputes of the municipalities and applicants, which is something the department would prefer to avoid.

There is only a narrow time frame between the application filing and the beginning of the new gaming year. Therefore, the department's experience is that denying or conditioning a permit will mean that everything related to that action must be expedited within that narrow time frame. Furthermore, Alaska courts have enjoined actions that deny a permit until the applicant is afforded due process, which includes appeal rights. Thus, all actions related to the application are undertaken on a compressed schedule. In the interim, the department may not be able to deny or condition the permit or license until the dispute is finally resolved.

REVISED: APR. 25, 2001
Mid

FISCAL NOTE

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CAPITAL EXPENDITURES						
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Estimate of any current year (FY2001) cost: 0.0

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SENATOR KIM ELTON

SB 175
Granting Local Governments the Right to Protest Gaming Permits

Sponsor Statement

Charitable gaming in Alaska is big business. In 1999 Alaskans bought more than \$293,838,500 worth of pull tabs and bingo cards. While some of the money goes to nonprofit organizations, vendors and operators also see significant revenue from Alaskans who like to gamble. Local governments sometimes find themselves without the tools they need to handle disputes with gambling operations that function under state law.

Without this bill, a local government having trouble with a gaming operation has limited options: it could ban all charitable gaming, ban only pull-tabs, or forever prohibit a particular individual or group from conducting gaming activities in the municipality. SB 175 allows an intermediate step before such drastic action must be taken by giving local governments the right to protest charitable gaming permits, just as they can alcohol licenses.

According to the Alcoholic Beverage Control board, the most common reasons for protesting liquor licenses are failure to meet local safety codes and failure to pay municipal taxes. When taxes are in dispute, the protest mechanism lets municipalities insist the disputed amount go into an escrow account before the city lifts its protest. Recent experiences with tax disputes over charitable gaming have showed the need for this tool. One incident involving three permittees resulted in a tax arrearage of nearly \$1 million, a debt that threatens the solvency of the nonprofits involved, and the services they provide to their communities.

SB 175 also allows municipalities to condition licenses to mitigate problems that arise. Since local governments may also hold charitable gaming permits, SB 175 precludes municipalities that hold gaming permits from protesting or conditioning for any reason except nonpayment of taxes.

Presented by: The Manager
Introduced: 02/05/2001
Drafted by: J.R. Corso

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2077

**A Resolution Urging the Alaska Legislature to Provide for Effective
Local Protest of Pull-Tab Licenses and to Require Licensing of Pull-
Tab Employees.**

WHEREAS, recent experience has shown that substantial volumes of money flow through pull-tab operations, and any failure to collect and remit sales taxes on this volume can have a substantial effect on local revenues, and

WHEREAS, it is essential that the City and Borough be equipped with effective tools to enforce sales tax laws and other local laws applicable to pull-tabs, and

WHEREAS, a tool that has proved its effectiveness in a similar context is AS 04.11.480, by which the State of Alaska authorizes local governments to protest the issuance or renewal of a state liquor license, and

WHEREAS, unless the protest is arbitrary, capricious or unreasonable, it will be honored by the State and the liquor license will be denied, or will be granted with conditions requested by the local governing body, and

WHEREAS, this statute gives local governments a clear voice in the alcohol regulation process, allowing them to point out those few licensees who are delinquent in the payment of local taxes, who serve minors, or who otherwise operate in an unlawful manner, and

WHEREAS, the state system for regulating pull-tabs provides under AS 05.15.030 that local governments may protest the issuance of pull-tab licenses, but only on the grounds that a licensee lacks the qualifications prescribed by the State, and even then the protest is merely advisory, and

WHEREAS, local governments deserve better than this rudimentary control over gambling in their jurisdiction, and

WHEREAS, the people who operate and manage pull-tab operations are crucial to the effectiveness and efficiency of any regulatory system, whether these people are employed by permittees, vendors, operators, or otherwise, and,

WHEREAS, there is presently no system under Alaska statutes to license pull-tab employees, and

WHEREAS, licensing of pull-tab employees would allow training and examination as a means of ensuring compliance with the regulations applicable to pull-tab operations;

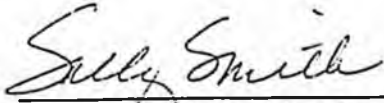
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Request for Legislation. The Assembly respectfully requests that the Alaska Legislature undertake statutory reform of AS 05.15 for the purpose of establishing an effective local protest of gambling licenses, for licensing of pull-tab employees, and for such other regulation as may serve the public interest.

Section 2. Distribution. The Clerk shall deliver copies of this resolution to the legislative delegation.

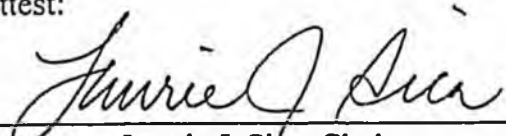
Section 3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 5th day of February, 2001.



Sally Smith, Mayor

Attest:



Laurie J. Sica, Clerk

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

Presented by: The Manager
Introduced: 02/05/2001
Drafted by: J.R. Corso

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2077

A Resolution Urging the Alaska Legislature to Provide for Effective Local Protest of Pull-Tab Licenses and to Require Licensing of Pull-Tab Employees.

WHEREAS, recent experience has shown that substantial volumes of money flow through pull-tab operations, and any failure to collect and remit sales taxes on this volume can have a substantial effect on local revenues, and

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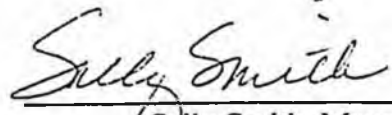
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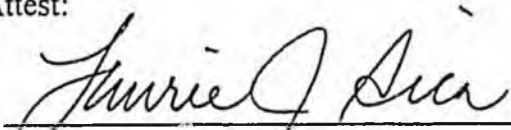
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Adopted this 5th day of February, 2001.



Sally Smith, Mayor

Attest:



Laurie J. Sica, Clerk

Feb. 1, 2001 Juneau Empire

City scores on pulltabs

Judge says operators must pay up

By FERNAND CHANDONNET
THE JUNEAU EMPIRE

The latest round in a \$900,000 battle between Juneau and pulltab operators who refuse to pay sales taxes has been decided in favor of the city.

On Wednesday, retired Justice Jay Rabinowitz turned down the appeal by Last Chance Co-op, Multiple Charities Association Co-op and Alaska Native Brotherhood Camp 2 of a city administrative decision that the 1996 1 percent sales tax increase applies to the pulltabs and that the tax was to be collected on gross receipts.

Rabinowitz also threw out the pulltabs' request for a trial to determine the facts of the case, and granted the city's request for a summary judgment for payment of about \$900,000 in back taxes, inter-

These are gamblers. They know when to hold 'em and when to fold 'em.

— City Attorney John Corso

est and penalties.

"It rules in favor of the city on all issues," said Assistant City Attorney John Hartle, who represented the city in oral arguments. Please see Pulltabs, Page 8

Pulltabs...

Continued from Page 1

before Rabinowitz last Friday. "It shows me the (city) sales tax administrator made a good call in her original determination" that the pulltab operators had to pay the tax in the manner requested by the city. "The city has been saying this from Day One."

The operators - dubbed Multiple Beneficiary Permittees by the state - have the right to appeal the Superior Court decision to the state Supreme Court, according to City Attorney John Corso. "But these are gamblers," he said. "They know when to hold 'em and when to fold 'em."

Asked about an assertion by MBP attorney John Rice that the city was ready to foreclose on the Alaska Native Brotherhood Hall, Hartle said the city's collections de-

partment routinely establishes such liens, but that the city is more likely to try to formulate a "reasonable payment plan" to recover the money.

But whether the city can legally collect from an MBP's current revenues to redress past violations may need to be clarified by a change in state regulations, said Juneau Assembly member Cathy Munoz. Munoz is also chairwoman of the assembly Finance Committee and has been emphatic about collecting from MBPs that are past due.

A measure to be introduced at Monday's assembly meeting may take the form of a resolution going to Juneau's legislative delegation and asking state legislators to change Gaming Division regulations to allow municipalities to collect from present revenues for debts established in the past.

"We will also review an ordi-

nance that won't allow organizations to appeal delinquencies unless they pay the arrears first," Munoz said. "You can't blatantly ignore the tax that is due."

The MBPs did in fact appeal the city decision last summer without paying the disputed tax first.

"The assembly is also interested in having input into the gaming permit before the gaming board issues it" to the MBP, Munoz said. Munoz likened the process to state-issued liquor licenses, which routinely come under city review before they are granted or renewed - or rejected if the license is found by the assembly's Human Resources Committee not to be in compliance with city code.

A reinterpretation of state regulations to allow collection from current revenues for past debts may still not be enough to precipitate collection - at least from Last Chance Co-op. In January, the state

took away that MBP's 2001 pulltab permit after finding Last Chance hadn't distributed enough of its take to charities since 1995, as mandated by state regulation.

Asked about repeated complaints by MBP operators that the combination of the city's 5 percent sales tax and the high prize payout - in some cases, 80 percent - was ruinous to the pulltab operations and prevented them from distributing money to charities, Hartle said, "As for the tax, that's a policy call for the assembly."

And as for the prize payout, "that's completely at the discretion of the sellers," he said.

MBP attorney Rice did not return calls requesting comment.

.....

Fernand Chandonnet can be reached at fchandonnet@juneau-empire.com.

City may give break to pulltabs

02/20/01
Juneau
Empire

Assembly weighs plans to collect back taxes

By BILL McALLISTER
THE JUNEAU EMPIRE

The Juneau Assembly must decide whether to seek all of the nearly \$1 million the city is owed by three gaming groups. But for now, it is not going after most of the nonprofit organizations that benefited from the pulltab operations in dispute.

"If we hold firm (on the total amount), we run the risk of getting zip." Deputy Mayor John MacKinnon said during an informal fi-

nance subcommittee meeting Monday at the Capital Cafe.

That's because the gaming groups don't have assets to seize, aside from their gaming revenue, and could fold up shop at any time without paying, MacKinnon said. After an unfavorable court ruling, the groups reportedly have offered to pay the principal they owe if the city changes its tax policy.

In figuring out its collection strategy, city officials also should

Please see Pulltabs, Page 8

Pulltabs...

Continued from Page 1

try to clean up charitable gambling, says a gaming manager for three other local charities.

David Sanden, gaming manager for nonprofit organizations Juneau Dance Unlimited, Juneau Montessori Center and Juneau Lighthouse Association, told MacKinnon and assembly member Don Etheridge that they should take a comprehensive look at gambling and ask the state for regulatory authority.

"We want this industry to be a clean, reputable revenue stream" for charities, Sanden said. His clients don't like the guilt by association that comes from being in the gaming industry, he said, and he's worried the Legislature might put an end to charitable gambling if problems persist. Etheridge said city officials might approach the Legislature about making changes in the law.

This month, former Supreme Court Justice Jay Rabinowitz turned down an appeal by Last Chance Co-op, Multiple Charities Association Co-op and Alaska Native Brotherhood Camp 2 Inc. of a city administrative decision on a 1 percent sales tax increase from 1996. Rabinowitz, acting as a Superior Court judge, ruled that the tax applies to pulltabs and is to be collected on the gross amount wagered.

There is a past due bill of \$627,871 in sales taxes, plus another

\$348,764 in interest, penalties and attorney's fees, said Assistant City Attorney John Hartle. The three gaming groups, managed by George Wright, stopped paying the sales tax in October 1998, although there has been a \$53,000 lump sum payment since the judge's ruling, Hartle said. Last Chance just lost its state gaming license for not meeting minimum contributions to charity.

The groups can appeal to the state Supreme Court, but would have to post a bond equal to the amount they owe in order to keep the city from seeking to enforce the judgment, Hartle said. He said the city will ask Rabinowitz to issue an enforceable judgment, which will start the clock running on a 30-day appeal period.

For now, Hartle said, the city has no plans to go after the 12 nonprofit organizations that benefited from pulltab proceeds generated by Last Chance and Multiple Charities, which are known as multiple-beneficiary permittees.

"Politically, you don't want to go after soccer balls," Sanden agreed. But he said he wouldn't want to see the city pursue less than the princi-

pal it's owed, either. If a negotiated settlement comes in at less than what the three groups should have paid in sales taxes, "We'd probably be there with our hands out, saying, 'What about us?'" he said.

There is no bad blood among the nonprofit groups, Sanden emphasized, but he said it wouldn't be fair to give a tax break to gaming groups who haven't complied with the law.

"He could come with his hand out, but I don't think he would be received very warmly," MacKinnon said later. "Unfortunately, you're being penalized for being

honest."

The gaming groups who are in arrears have offered to pay the principal over four years if the city changes its tax policy during that period, Hartle said. They have asked that the 5 percent tax be applied to the "ideal net," the amount left after prizes are paid out, rather than the gross amount wagered.

In effect, that would be taxing 20 percent of the money that is now taxable, because that policy would have to be applied to all gaming groups, MacKinnon said. It's doubtful whether the back taxes would be enough even to offset the lower revenue from that change in policy, although a formal analysis still needs to be done, he said.

Wright could not be reached for comment, nor could his attorney, John Rice.

.....

Bill McAllister can be reached at billm@juneauempire.com.

SB

231

AMENDMENT

#1

OFFERED IN THE SENATE

BY SENATOR AUSTERMAN

TO: SB 231

- 1 Page 2, line 6:
- 2 Delete "beds."
- 3 Insert "beds;
- 4 (8) Dillingham - construction of new facility with 25 beds;
- 5 (9) Kodiak - construction of new facility with 20 beds;
- 6 (10) Kotzebue - expansion of existing facility by 26 beds;
- 7 (11) North Slope Borough - construction of new facility with 20 beds."

AA
Tech: Line 12 ^{RS} facilities to read
"ies" to MAT-SU NO OBS
AA' NO OBS.

Amendment #2

OFFERED IN THE SENATE BY: *AUSTENMAN*

TO: SB 231 "An Act relating to correctional facilities."

- 1 Page 2, line 5
- 2 Delete Kenai Peninsula Borough
- 3 Insert City of Kenai

AA; NO OBS.

SITE: Kodiak LIO

COMMITTEE: Senate
Community & Regional
Affairs

DATE: 03-20-02

SUBJECT OF MEETING: SB 231 -
CORRECTIONAL FACILITY EXPANSION

UPDATE # 1



PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

P R I N T YOUR NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Linda Freed		City of Kodiak	Y
Email address:			
Email address:			
Email address:			

AMENDMENT

#1

OFFERED IN THE SENATE

BY SENATOR AUSTERMAN

TO: SB 231

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TO: SB 231 "An Act relating to correctional facilities."

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- 2 Delete Kenai Peninsula Borough
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AMENDMENT

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BY SENATOR AUSTERMAN

TO: SB 231

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- 3 Insert City of Kenai

BIRCH, HORTON, BITTNER AND CHEROT
A PROFESSIONAL CORPORATION

Mr. John Duffy
March 11, 2002
Page 3

5. **Assignment.** The municipality will enter into an assignment of all of its rights under the lease to AIDEA (or to a trustee for the owners of the Bonds). This will allow the assignee to receive the payments of rent under the lease, and to exercise all of the municipality's rights as lessor under the lease if the State fails to perform its obligations. The assignment will be without recourse. This means that if the State fails to perform under the lease, the owners of the Bonds cannot obtain any recovery from the municipality.

The agreements described above will be drafted to insulate a participating municipality from risks associated with the Project. The most significant of these risks, and the way in which the municipality is protected from each of them, are described below.

- **Construction Risks.** Under the transfer of responsibilities agreement, DOT/PF will be responsible for all construction-related claims. The lease with the State will provide for the municipality to provide a specified amount, derived only from Bond proceeds, to pay costs of the Project. The construction budget financed from Bond proceeds will include an amount for construction contingencies. In the event of a construction cost overrun exceeding the available contingency amount, the municipality will not be obligated to provide funds to complete the Project. Those funds must come from additional bonds that AIDEA would issue, secured by an agreement by the State to pay additional rent under the lease of the Project. The lease will provide that the State's obligation to pay rent commences not later than a specified date, regardless of whether the Project is ready for occupancy. Thus, the State assumes the risk of construction delays.
- **Ownership Risks.** Under the lease, the State would assume during the lease term all of the significant risks of ownership of the Project. The State will be required to provide insurance against casualty losses to the Project, such as from fire or earthquake, and the municipality will have no obligation to repair or reconstruct the Project after a casualty loss except from insurance proceeds. The State will be responsible for providing all building services, such as utilities and janitorial service, so that the municipality will incur no liability for those services. The State also will agree to indemnify the municipality from liabilities associated with the Project, including personal injury claims by inmates and State employees at the Project, and claims for environmental contamination.
- **Credit Risks.** The municipality will assume no responsibility for the payment of the Bonds from its own resources. Rent payments by the State will flow directly to AIDEA

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

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RONALD G. BIRCH
WILLIAM H. BITTNER
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ALLISON M. ELLIOTT
KATHLEEN TOBIN BIRD
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MICHAEL J. PAINE
REBECCA C. PALLO
TIMOTHY J. PETRUSINOS
ELIZABETH H. POORE

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2. D.C. AND ALASKA BAR
3. MARYLAND BAR
4. VIRGINIA BAR
ALL OTHER ALASKA BARS

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WRITER'S DIRECT DIAL 907.263.7268 • FAX 907.276.3880 • E-MAIL bjb@bhbc.com

March 11, 2002

via FACSIMILE and FIRST CLASS MAIL

Mr. John Duffy
Borough Manager
Matanuska-Susitna Borough
350 East Dahlia Avenue
Palmer, Alaska 99645

Re: Financing of State Correctional Facility Expansion

Dear Mr. Duffy:

The Alaska Legislature is considering a proposal to expand several state correctional facilities. The correctional facilities whose expansion will be financed under this proposal are located in seven municipalities. It is proposed that the facility expansion in each municipality will be financed by a separate series of bonds to be issued by the Alaska Industrial Development and Export Authority ("AIDEA"). The proposed financing structure provides for the municipality in which the correctional facility is located to participate in financing its expansion. The proposal assures that the risk to a municipality from participating in the financing would be minimal, while the municipality would derive economic benefits from the facility's expansion. You have asked us, as the Borough's bond counsel, to prepare the following explanation of the role that a participating municipality could play in this financing.

AIDEA will issue a separate series of bonds (the "Bonds") to finance the facility expansion (the "Project") in each municipality. AIDEA will loan the proceeds of the Bonds to the municipality to construct the Project. The municipality will transfer responsibility for the design and construction of the Project to the State Department of Transportation and Public Facilities ("DOT/PF"). The municipality will own the Project, and lease the Project to the State Department of Administration for the benefit of the Department of Corrections (collectively, the "State"). The municipality will assign to AIDEA (or to a trustee for the

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A PROFESSIONAL CORPORATION

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March 11, 2002
Page 2

owners of the Bonds) the right to receive rent from the State under the lease of the Project. The payments of rent from the State will be used to pay the principal and interest on the Bonds.

Each municipality will enter into the following principal documents in connection with the financing:

1. Loan Agreement. The municipality will enter into a loan agreement with AIDEA. Under the loan agreement, the municipality will agree to receive the bond proceeds, apply the bond proceeds to the design, construction management and construction of the Project, lease the Project to the State for an annual rent sufficient to pay debt service on the Bonds and related expenses, assign to AIDEA its right to receive rent under the lease, and enter into an agreement with DOT/PF for the design and construction of the Project. The loan agreement will obligate the municipality to repay the loan, but only from rent paid by the State under the lease. The municipality will not be obligated to repay the loan with its own funds.
2. Ground Lease. The State, as owner of the site on which the Project will be constructed, will enter into a ground lease of the site to the municipality. Under the ground lease, the State will assume responsibility for any preexisting defects in the title to the property, and any preexisting environmental contamination of the property.
3. Lease. The municipality will enter into a lease of the Project to the State. The lease will be for a term of years at least equal to the term of the Bonds. The rent payable by the State under the lease will be sufficient to pay debt service on the Bonds, and related financing expenses, and will be paid in exchange for the State's right to occupy the Project. The lease will not obligate the municipality to provide any services for the Project (utilities, janitorial, insurance, etc.). All costs associated with the operation and maintenance of the Project will be the responsibility of the State. The State's obligation to pay rent will be subject to annual appropriation. If the legislature fails to appropriate rent in any fiscal year, there will be no recourse against the State, except that AIDEA, as assignee of the municipality's interest under the lease, may repossess the Project.
4. Transfer of Responsibilities Agreement. The municipality as owner of the Project will enter into a transfer of responsibilities agreement with DOT/PF, under which DOT/PF will manage the design and construction of the Project. DOT/PF will contract with an architectural or engineering firm to design the Project, and the general contractor who will build the Project. DOT/PF will be responsible for all construction-related claims.

BIRCH, HORTON, BITTNER AND CHEROT
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Mr. John Duffy
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Page 3

5. **Assignment.** The municipality will enter into an assignment of all of its rights under the lease to AIDEA (or to a trustee for the owners of the Bonds). This will allow the assignee to receive the payments of rent under the lease, and to exercise all of the municipality's rights as lessor under the lease if the State fails to perform its obligations. The assignment will be without recourse. This means that if the State fails to perform under the lease, the owners of the Bonds cannot obtain any recovery from the municipality.

The agreements described above will be drafted to insulate a participating municipality from risks associated with the Project. The most significant of these risks, and the way in which the municipality is protected from each of them, are described below.

- **Construction Risks.** Under the transfer of responsibilities agreement, DOT/PF will be responsible for all construction-related claims. The lease with the State will provide for the municipality to provide a specified amount, derived only from Bond proceeds, to pay costs of the Project. The construction budget financed from Bond proceeds will include an amount for construction contingencies. In the event of a construction cost overrun exceeding the available contingency amount, the municipality will not be obligated to provide funds to complete the Project. Those funds must come from additional bonds that AIDEA would issue, secured by an agreement by the State to pay additional rent under the lease of the Project. The lease will provide that the State's obligation to pay rent commences not later than a specified date, regardless of whether the Project is ready for occupancy. Thus, the State assumes the risk of construction delays.
- **Ownership Risks.** Under the lease, the State would assume during the lease term all of the significant risks of ownership of the Project. The State will be required to provide insurance against casualty losses to the Project, such as from fire or earthquake, and the municipality will have no obligation to repair or reconstruct the Project after a casualty loss except from insurance proceeds. The State will be responsible for providing all building services, such as utilities and janitorial service, so that the municipality will incur no liability for those services. The State also will agree to indemnify the municipality from liabilities associated with the Project, including personal injury claims by inmates and State employees at the Project, and claims for environmental contamination.
- **Credit Risks.** The municipality will assume no responsibility for the payment of the Bonds from its own resources. Rent payments by the State will flow directly to AIDEA

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Mr. John Duffy
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Page 4

or a trustee for the owners of the Bonds. If the State fails to appropriate rent, or defaults in its obligation to pay rent that has been appropriated, a bond owner's recourse will be limited to a claim against the State or the Project. The municipality will have no obligation to pay the claim.

On balance, we expect each participating municipality will find that the economic benefits to its community from the Project far outweigh any potential risks or liability. We look forward to having the opportunity to explain this proposal to participating municipalities in greater detail, and to answer their questions about the proposal

Yours truly,

BIRCH, HORTON, BITTNER and CHEROT


Thomas F. Klinkner

TFK/cm

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement SB 231

The need for additional prison beds in Alaska has been recognized by the Legislature for a number of years. Currently, there are hundreds of Alaskan prisoners being held in facilities outside of Alaska. The money that leaves Alaska to pay for the housing of these prisoners provides jobs and economic activity in Arizona, instead of Alaska.

Senate Bill 231 provides legislative authorization for the expansion of state prisons by local governments. Under the provisions of SB 231, local governments would finance the construction of new prison facilities and additional beds at facilities currently owned by the state. The State of Alaska would then enter into long-term leases and operate the facilities as part of the state correctional system. This financing mechanism allows the state to acquire facilities with no upfront capital costs. It benefits both the state and local economies with construction jobs and long-term jobs in the facilities. In many cases the existing facilities were designed with oversized core facilities that allow for expansion at a cost that is far less than that of building the same number of beds in a new facility.

The need for additional prison beds in Alaska is virtually uncontested. However, the location of facilities, the method of financing the construction and who will operate the new facilities all raise issues. In 1998, the Legislature authorized the construction of a privately constructed and operated prison with a minimum of 800 beds in Delta Junction. This prison was not built. In 2001, the Legislature passed HB 149, which provided for construction of a minimum of 800 private prison beds on the Kenai Peninsula. This prison also is not being built. By expanding currently existing facilities, very little energy must be spent on convincing a community that a prison should be constructed there. Expansion poses few of the obstacles that accompany new construction at new locations. Current correctional facilities are already integrated into and accepted by local communities.

Feb. 26. 2002 5:18PM CITY OF BETHEL

No. 8484 P. 2/2

Introduced by: Council Member Drake
Date: February 12, 2002
Action: Passed
Vote: Unanimous

CITY OF BETHEL, ALASKA**RESOLUTION #02-04****A RESOLUTION OF THE BETHEL CITY COUNCIL IN SUPPORT OF THE CONCEPT OF EXPANDING STATE OPERATED PRISONS WITHIN ALASKA MUNICIPALITIES**

WHEREAS, The State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities, and;

WHEREAS, The State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state correctional facilities—funds that if expended in the State of Alaska could significantly benefit state and local economies, and;

WHEREAS, The development of expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs, and;

WHEREAS, Maintaining prisoners within the State allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation, and;

WHEREAS, Expansions of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons, and;

WHEREAS, The State of Alaska Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

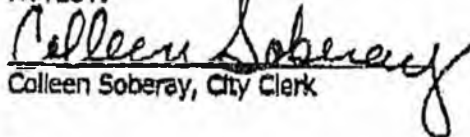
NOW, THEREFORE, BE IT RESOLVED that the Bethel City Council supports the general concept of a comprehensive statewide approach to prison development considering the significant financial and clinical benefits of expanding existing prisons.

PASSED AND APPROVED THIS 22nd DAY OF JANUARY 2002, by a unanimous voice vote.



Stanley "Turley" Rodgers, Mayor

ATTEST:


Colleen Soberay, City Clerk

Presented by: Assemblymember
Etheridge
Introduced: 02/25/2002
Drafted by:

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2142

**A Resolution in Support of the Concept of Establishing
Multiple, Municipally Owned, State Operated Prisons.**

WHEREAS, the State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities, and

WHEREAS, the State of Alaska expends approximately \$18 million annually to transport and house prisoners in out-of-state facilities; funds that if expended in the State of Alaska could significantly benefit state and local economies, and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs, and

WHEREAS, maintaining prisoners within the State allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation, and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons, and

WHEREAS, the State of Alaska Department of Corrections has a longstanding history of providing consistent correctional practices that protect the public's safety, allow for community participation through government to government transactions and address statewide and regional correction needs;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. That the City and Borough of Juneau supports the general concept of a comprehensive state-wide approach to prison development, whereby the financial and rehabilitative benefits of expanding existing prisons are equally considered with the development of new prisons.

Section 2. That new or expanded prisons may be owned by the municipalities and operated by the State of Alaska Department of Corrections under a long-term lease with the municipalities.

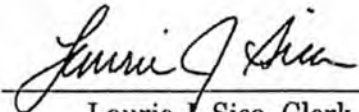
Section 3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 25th day of February, 2002.



Sally Smith, Mayor

Attest:



Laurie J. Sica, Clerk

KETCHIKAN GATEWAY BOROUGH**RESOLUTION NO. 1651****A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH,
ALASKA, SUPPORTING THE CONCEPT OF ESTABLISHING AND/OR EXPANDING
MULTIPLE, MUNICIPALLY-OWNED, STATE-OPERATED CORRECTIONAL FACILITIES;
AND PROVIDING FOR AN EFFECTIVE DATE****RECITALS**

A. The State of Alaska recognizes the pressing need to reduce overcrowding in its correctional facilities and bring the 800 plus prisoners home who are presently housed in out-of-state correctional facilities.

B. The State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state facilities; funds which, if expended within the state of Alaska, could significantly benefit state and local economies.

C. The development of new or expanded correctional facilities in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round corrections jobs.

D. Maintaining prisoners within the state allows them to be closer to their families and culture, which enhances the potential for prisoner rehabilitation.

E. Expansions of many of Alaska's existing correctional facilities can be accomplished more cost effectively than constructing new correctional facilities.

F. Alaska State Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA as follows:

Section 1. The Ketchikan Gateway Borough Assembly supports the general concept of a comprehensive statewide approach to correctional facility development, where the financial and clinical benefits of expanding existing correctional facilities are equally considered with the development of new correctional facilities.

Section 2. The Assembly further supports the concept that new or expanded correctional facilities be owned by the municipalities and operated by the Alaska State Department of Corrections under a long-term lease agreement with the relevant municipalities including the Ketchikan Gateway Borough.


RESOLUTION NO. 1651

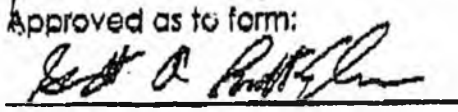
PAGE 2

Section 3. This resolution is effective upon adoption.

ADOPTED this 19th day of February, 2002.


BOROUGH MAYOR

ATTEST:

BOROUGH CLERK

Approved as to form:

BOROUGH ATTORNEY

EFFECTIVE DATE: February 19, 2002			
ROLL CALL	YES	NO	ABSENT
BERGERON	✓		
COOSE	✓		
LYBRAND	✓		
SALAZAR			✓
SALLER	✓		
SARBER	✓		
BURTON			✓
MAYOR (no Vote Only)			N/A
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

CITY OF PALMER, ALASKA

RESOLUTION NO. 1264

A RESOLUTION OF THE CITY OF PALMER IN SUPPORT OF THE CONCEPT OF ESTABLISHING MULTIPLE, MUNICIPAL OWNED, STATE OPERATED PRISONS.

WHEREAS, the State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities; and

WHEREAS, the State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state facilities; funds if expended in the State of Alaska could significantly benefit state and local economies; and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs; and

WHEREAS, maintaining prisoners within the state allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation; and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons; and

WHEREAS, Alaska State Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

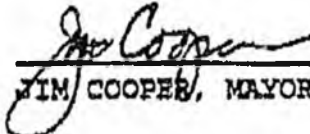
NOW, THEREFORE, BE IT RESOLVED, the City of Palmer supports the general concept of a comprehensive statewide approach to prison development, where the financial and clinical benefits of expanding existing prisons are equally considered with the development of new prisons; and

BE IT FURTHER RESOLVED, that new or expanded prisons be owned by the municipalities and operated by the Alaska State Department

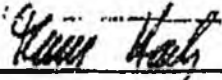
Resolution No. 1264 - Continued

of Corrections under a long-term lease with the relevant municipalities including the Matanuska-Susitna Borough.

Adopted by the City of Palmer this 26th day of February, 2002.



JIM COOPER, MAYOR



THOMAS HEALY, CITY CLERK