

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11098 SENATE COMMUNITY & REGIONAL AFFAIRS ( )



# RECORDS CERTIFICATION



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*William J. Carter*

Signature of Camera Operator

*8/11/2005*

Date

2003-2004

SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

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MICROFICHE #

CONFIRMATION: EDGAR BLATCHFORD,  
COMMISSIONER, DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT, 2/5/03

PRESENTATION: LOCAL BOUNDARY COMMISSION,  
4/9/03

SB 38

SB 51

SB 62

SB 63

SB 118

SB 132

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SB 250

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2003-2004

SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

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HCR 2

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HJR 14

**CONFIRM:  
EDGAR  
BLATCHFORD,  
COMMISSIONER  
DEPT. OF  
COMMERCE &  
EC. DEV. 2/5/03**

DATE: January 30, 2003  
TO: Senate Secretary  
FROM: Senator Tom Wagoner, Chair  
Senate Community and Regional Affairs Committee  
RE: Meeting Schedule: February 3 – February 7, 2003

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February 3: No meeting scheduled.

+ February 5: 1:30pm : Fahrenkamp, Room #203  
Confirmation Hearing, Commissioner  
Dept. Community & Economic Development – Edgar Blatchford

February 7: No meeting scheduled.

+ Teleconferenced



OFFICIAL BUSINESS

# Alaska State Legislature

## Senate

STATE CAPITOL ROOM 213  
JUNEAU, ALASKA 99801-1182  
(907) 465-3701  
FAX: 465-2832  
EMAIL: senate\_secretary@legis.state.ak.us

January 22, 2003

### MEMORANDUM

TO: Senator Wagoner, Chair  
Community and Regional Affairs Committee

FROM: Kirsten Waid *KW*  
Acting Secretary of the Senate

SUBJECT: Governor's Confirmations

Pursuant to Article III, Section 25 of the Alaska Constitution, President Therriault has referred the following name for legislative confirmation to your committee for a hearing, recommendation and report:

**Commissioner - Department of Community and Economic Development**

Edgar Blatchford  
Appointed: 01/18/2003

KW/lc  
Resume attached

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

**Edgar Blatchford**  
**Associate Professor**  
**Department of Journalism and Public Communications**  
**College of Arts and Sciences**  
**University of Alaska Anchorage**  
**3211 Providence Drive**  
**Anchorage, Alaska 99508**

---

**Address:** P.O. Box 1344  
Seward, Alaska 99664  
**Phone:** Home (907) 224-5532  
Office (907) 786-4185  
Cell (907) 362-1765

**Education:** Bachelor of Arts,, Alaska Methodist University, 1973.  
Juris Doctor, School of Law, University of Washington, 1976 .  
Masters of Journalism, Graduate School of Journalism, Columbia  
University in the City of New York, 1988.

### **Teaching**

#### **A. Teaching Experience**

- University of Alaska Anchorage, Department of Journalism and Public Communications, Associate Professor, July 2002 to current.
- Affiliate Professor, College of Rural Alaska, University of Alaska Fairbanks, September 2000 to present.
- University of Alaska Anchorage, Assistant Professor, Department of Journalism and Public Communications and Alaska Native Studies, August 1999 to June 2002.
- University of Alaska Anchorage, Department of Journalism and Public Communications, Assistant Professor, August 1995 to August 1999.

- University of Alaska Fairbanks, College of Rural Alaska, Visiting Assistant Professor, January 1995 to June 1995.
- Alaska Pacific University, School of Liberal Arts, Adjunct Professor, August 1978 to May 1979.

#### B. Advisor

- Alaska Native Oratory Society, January 2001 to current.
- *The Northern Light*, August 1999 to current.
- Public Relations Students Society of America, August 1995 to May 1999.

#### C. Classes Taught (Partial List)

- Journalism: JPC 101 Introduction to Mass Communications, JPC A201 Writing for Media, JPC 212 Editing, JPC 320 Principles of Public Relations, JPC 330 Advanced Public Relations, JPC A413 Communications Law, AKNS A490 History of Alaska Media, 1995 to present.
- Alaska Native Studies: AKNS A490 Selected Topics: Political Communications, AKNS A490 Selected Topics: The Corporations, AKNS A346 Alaska Native Politics, 1998 to present.

### Service

#### A. Elected Government

- Mayor, City of Seward, Alaska, October 1999 to current.
- Vice Mayor, City of Seward, Alaska, December 1998 to October 1999.
- Council, City of Seward, Alaska, October 1996 to October 1999.
- Legislative Committee, Alaska Municipal League, November 1998 to present.

#### B. Appointed Government

- Governor's Cabinet, Commissioner, Alaska Department of Community and Regional Affairs, January 1991 to December 1995.

- Board of Directors, Alaska Housing Finance Corporation, June 1992 to December 1994.
- Board of Directors, Alaska Industrial Development and Export Authority, May 1991 to December 1994.
- Board of Directors, Alaska Energy Authority, May 1991 to June 1993.
- Board of Directors, State Geographic Names Board, January 1991 to June 1993.
- Board of Directors, Alaska Bond Bank Authority, January 1991 to December 1994.
- Member, Older Alaskans Commission, January 1991 to December 1994.
- Chair, Alaska State Rural Development Council, January 1992 to December 1994.
- Board of Directors, Rural Alaska Community Action Program, January 1991 to December 1994.
- Telecommunications Information Council, January 1991 to December 1994.
- Chair, Community Development Quota Group, March 1991 to December 1994.
- Chair, Rural Development Sub-cabinet, March 1991 to December 1994..

#### C. University Service (Sample List)

- Alaska Native Lecture Series Committee, November 2001 to June 2002.
- Women Warriors: Healing and Reconciliation Committee, October 2001 to April 2002.
- Member, JPC Public Relations Search Committee, January to May 2001.
- Dedicator, Tsunami Warning Center, City of Seward, January 2002.
- Reviewer, University of Alaska Anchorage Proposal for a Masters of Public Health in Public Health Practice (for Lawrence D. Weiss, Ph.D.), January 2002
- Panelist, Forum on Academic Freedom, November 2001.
- Guest Lecturer, Alaska Native Claims Settlement Act, JPC 490, April 2002.
- Guest Lecturer, Natives of Alaska, Anth 200, April 1998.

- Guest Lecturer (Questions and Answers), Diversity in Your Backyard: How Alaska Media Report on Minority and Native Affairs, JPC Forum, October 1999.
- Multi-cultural Committee, College of Arts and Sciences, 1995-1996.
- Alaska Native Students Services Selection Committee, 1995-1997.

#### D. Alaska Native Community Service (Sample List)

- Panelist, National Summit on Emerging Tribal Economics, September 2002.j
- Lecturer, Cross Cultural Orientation, Southcentral Foundation/Alaska Native Medical Center, November 2001.
- Subsistence Committee, Alaska Federation of Natives, December 1998 to present.
- Board of Directors, Chugach Alaska Corporation, 1977-1978, 1979-1982, 1983-1987, 1988-1991, 1997-2000, 2001 to present.
- Consultant, Adviser or Council member, Qutekeak Native Tribe, June 1996 to present.
- Panelist, Alaska Federation of Natives Political Leadership Meeting, May 1999.
- Lecturer, Chugachmuit Curriculum Project, Seward Middle/High School, September 1999.
- Panelist, Seward Unitarian Universalists Winter Forums on Cultural Diversity and Awareness, Alaska Natives and Intercultural Communication, October 1999.

### Professional Development

#### A. Native Corporation

- Director, Advanced Concepts in Education (Palmer Job Corps Center), December 1997 to 2000.
- Director, Chugach Development Corporation, February 2002 to present.

#### B. Newspapers

- Editor/Publisher, *The Seward Phoenix Log*, February 1984 to December 1990.
- Editor/Publisher, *The Tundra Drums*, March 1987 to (inactive status January to March 1991) March 1991.
- President, Alaska Newspapers, Inc., March 1987 to (inactive status January to March 1991) March 1991.
- Board of Directors, Alaska Newspapers, Inc., March 1987 to present.
- Editorial Board, Alaska Newspapers, Inc., April 2000 to present.

### C. University

- Panelist, *Anchorage Edition* (television public affairs program), February, March, April, May, June, July, August 2002.
- Lecturer, NRCS Employees Meeting, June 2002.
- Lecturer, Department of Interior (Anchorage office), April 2002.
- Panelist, 2002 Alaska Emergency Management Conference, April 2002.
- Lecturer, Emergency Preparation Class, April 2002.
- Lecturer, Grinnel College Visit to UAA, March 2002.
- Presenter, Kenai Peninsula 2001 Economic Outlook Forum, Kenai Peninsula College, November 2001.
- Presenter, Kenai Peninsula 2000 Economic Outlook Forum, November 1999.
- Panelist, University of Victoria, School of Public Administration, Aboriginal Governance Program, "Yukon Alaska conference Strategic Communications," June 1998.
- Panelist, University of Victoria, Faculty of Human and Social Development, Indigenous Governance Program, "Strategic Communications in Aboriginal Programs," June 1993
- Panelist, University of Victoria, Faculty of Human and Social Development, Indigenous Governance Program, "Strategic Communications in Aboriginal Programs," June 1999.
- University of Washington Conference on Trauma and Journalism, September 1997.
- Annual Meeting, Association for Educators in Journalism and Mass Communications, August 1999.
- Panelist, Second Annual Rural Economic Development Forum, November 1999.

## Research/Creative Activity

### A. University

- "Working Together to Make Changes in Your Community," 1997 to 1999.
- CYFERnet Links "Working Together To Make Changes in Your Community" to web site, June 2002.

### B. Native Corporation

- Testimony, United States House of Representatives, Committee on Resources, July 1999.

### C. Native Association

- Legislative Language (Assistance and Preparation) for the United States House of Representatives, Committee on Resources, Testimony Recognizing Qutekcaak Native Tribe, February 1998.
- Negotiator, Qutekcaak Native Tribe, "Assignment of Sublease and Agreement Between Qutekcaak Native Tribe and the City of Seward for the Operation of the Seward Mariculture Research Center and Shellfish Hatchery," Summer 1997.

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## References

The Honorable Richard Foster  
Alaska State Representative  
P.O. Box 1030  
Nome, Alaska 99762  
(907) 443-5036

Robbie Fagerstrom  
President  
Sittnaak Native Corporation  
465 Bering Street

P.O. Box 905  
Nome, Alaska 99762  
(907) 443-2632

Dr. Gordon L. Pullar  
Director, Department of Alaska Native and Rural Development  
2221 W. Northern Lights Blvd., Suite 213  
Anchorage, AK 99508  
(907) 279-2700  
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University of Alaska Fairbanks Cooperative Extension Service  
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# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Alan Austerman  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Robin Taylor

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

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### REPORT ON CONFIRMATION OF APPOINTMENTS

February 5, 2003

The Honorable Gene Therriault  
President of the Senate  
State Capitol  
Juneau, Alaska 99801-1182

Dear President Therriault:

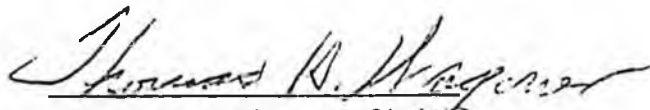
In accordance with AS 39.05.080, the Senate Community & Regional Affairs Committee reviewed the following and recommends the appointment be forwarded to a joint session for consideration


- Commissioner Select Edgar Blatchford – Department of Community & Economic Development

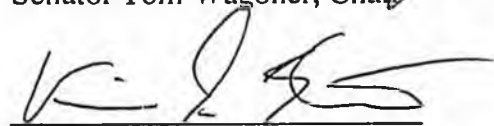
There were no stated objections to the confirmation of the named individual by committee members.

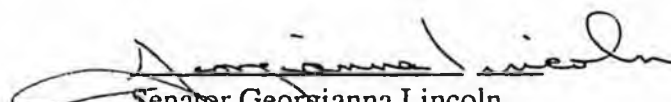
This does not reflect an intent by any of the members to vote for or against him during any further sessions.

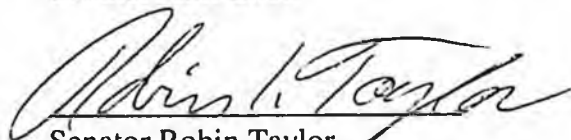
Respectfully,

  
Senator Tom Wagoner, Chair

  
Senator Alan Austerman

  
Senator Kim Elton

  
Senator Georgianna Lincoln

  
Senator Robin Taylor

**PRESENT.:  
LOCAL  
BOUNDARY  
COMM.**

**4/9/03**




# Alaska State Legislature

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

**Representative Carl Morgan**  
State Capitol Building, Room 408  
Juneau, AK 99801  
907-465-3882

### MEMORANDUM

To: House and Senate Community and Regional Affairs Committee Members

From: Representative Carl Morgan, Chair 

Date: February 12, 2003

Subject: Joint CRA Meeting.

I have attached written testimony from Kathie Wasserman (Mayor of Pelican) and Nancy Galstad. This testimony came into my office this afternoon via email at 1:47 pm. Both Wasserman and Galstad are former LBC Commissioners.

Although it is too late to add to the committee's testimony records, I thought it appropriate to provide members with a copy.

If you have any questions or comments please contact my staff Sue Stancliff at #3882

Thank You.

**Subject: views on LBC**

**Date: Wed, 12 Feb 2003 13:47:28 -0900**

**From: "Arnold Galstad" <ngalstad@earthlink.net>**

**To: sue\_stancliff@legis.state.ak.us**

Attached please find Kathie Wasserman and Nancy Galstad's comments to the LBC per your conversation with Kathie this PM.

I am sending this at Kathie's (Mayor of Pelican) request.

Arnie Galstad for:  
SOLUTIONS Inc.  
[ngalstad@earthlink.net](mailto:ngalstad@earthlink.net)

RCUA  
2/12/03  
-wg

## STATEMENT OF VIEWS ON BOUNDARY FORMATION IN ALASKA

By

**Nancy (Cannington) Galstad and Kathie Wasserman, DBA SOLUTIONS Inc  
Former Local Boundary Commissioners (1995-2001)**

We believe everyone involved in the process of borough formation in Alaska finds the current process flawed, with no offer of incentives. We would request that the Local Boundary Commission include our comments in their February 19<sup>th</sup> report to the Alaska State Legislature in addressing this issue.

As former Commissioners on the Local Boundary Commission, we believe the process needs to be reviewed and *changed*. We are not alone in this belief, as Southeast Conference, the Southeast Conference of Mayors, the Alaska Municipal League and some municipalities, have recently passed resolutions that call for the establishment of more flexible boundaries. We support that resolution in that it requests a review of the regulations and standards under which the Model Borough Boundaries were established. The current process, based on the Model Borough Boundaries, attempts to *force* unrealistic borough boundaries upon huge areas that may encompass differing cultures and tribes, differing economic circumstances, and does not, in most cases, follow the Regional Education Attendance Areas (REAs) as mandated in AAC 3. 110.060(c).

The December 9<sup>th</sup> meeting includes mention that a few complaints have been received regarding the REAs. While Model Borough Boundaries are said to closely link with REA boundaries, only three of the eight actually do so. Further, REA complaints would probably not be directed to the Local Boundary Commission, but rather to the Alaska Department of Education. Even if problems do exist with REA boundaries, they do not affect nearly the number of people that problematic borough boundaries might.

The Commission Chairperson, in the December 9<sup>th</sup> meeting, acknowledged in passing, the resolution accepted by the Southeast Conference of Mayors, Southeast Conference and the Alaska Municipal League concerning the revisit and/or updating of the Model Borough Boundary study. However, the Commission then immediately proceeded with the list of potential borough areas based on that same current Model Borough Boundary study that was at issue with so many local government officials.

The Model Borough Boundaries were established in 1991, through a process of public hearings, held by a former Local Boundary Commission. The economic climate in Alaska was much different than today. The three major economic influences upon which the state relied for revenues (oil, fishing and timber) were still very healthy. Through regulation changes, declines and differing world markets, impacts have been felt in all Alaskan communities. As the State of

Alaska has had to rein in its spending habits, the burden and shortfall for many services has been shifted to local governments. Local sales tax revenues have been negatively impacted by e-commerce, while the Legislature has been considering a statewide sales tax, which would further erode the ability to tax locally. All this and more has happened since 1991. These changes have impacted not only local economies, but also population demographics due to the loss of jobs.

Changing factors in our State are many; population shifts, resource declines, economic changes, stronger acknowledgement of cultural ties, reapportionment, etc. As usual, the DCED staff, with regard to SB 359, has done an exemplary job of pulling so much information together in such a short amount of time. However, due to no fault of their own, much of the information is already outdated with regard to area conditions. If pertinent information, gathered a number of weeks ago is not current, this only reinforces the need for flexible standards that are based on changes in communities, not changes in Commissioners or Commissioners' changing interpretations.

The Local Boundary Commission seems to give little weight to these issues as they carry out the mandate of SB 359. In the December 9, 2002 meeting, the Commission Chairman recommended, with Commission concurrence, that the Model Borough Boundaries be adopted as a starting point for their discussion. Herein lies the problem. How is a solution possible if the "problem" is adopted as the starting point? The Alaska Constitution, Article X, Section 3, requires the entire state to be divided into boroughs, organized and unorganized. It further provides that each borough must embrace an area and population *with common interests to the maximum degree possible* (emphasis added). The Model Borough Boundary philosophy seems to contradict this constitutional standard.

The Alaska Constitution further, allows for *mergers and consolidations*. This standard appears to be ignored by DCED and the LBC when looking at borough formations. If areas are forced to encompass such huge areas to begin with, as the Model Borough Boundaries dictate, mergers and consolidations in the future would be impossible due to their unmanageable size.

We believe that the actual Commission process warrants change, as well. Law forbids LBC Commissioners from having ex-parte contact (3AAC 110.500) with *anyone other than DCED staff* concerning any pending petition/action before the Commission. DCED staff advises petitioners, assists with the petition process, researches, reviews and evaluates the petition. DCED then produces a Preliminary Report that is made public and allows for responsive comments. This is followed by a Final Report with recommendations to the Commission to adopt, deny, or adopt the petition with modifications.

Generally at the juncture between the Preliminary and Final Report, the Commission receives the first information it has seen on the petition. This comes

in the form of a stack of documents that includes all substantiating documentation (petition, maps, audit reports, independent studies, etc.) from the petitioner, written public comments (which at times can be substantial) the Preliminary Report with recommendations and the Final Report. This huge amount of paperwork (record, November 2001, Homer Annexation – 37 lbs. of paperwork) must be read, analyzed and compared to the recommendations of staff in a very short period of time by unpaid Commission appointees who have full-time jobs and families. Included in this time period is travel to and from the hearing site.

While we understand the need to limit *ex parte* contact, we believe that the Commission should be actively *involved* in the decision-making process as it develops. They should receive any materials at the time those materials are accepted for consideration by staff, and attend any required public hearings held within the affected areas. This would allow them the opportunity to receive a fair and balanced picture of the proceedings rather than relying on the information once the petition process, absent the final public hearing, is completed.

One suggestion might be to place the Commission under the Department of Law, as the Commission is deemed to be a *quasi-judicial* body. The legislature needs to provide more staff positions as the huge workload currently rests on one staff member and his technical assistant. Absent the institutional memory and tremendous dedication of this 23-year LBC employee and his assistant to handle the workload of many, one cannot imagine the void that would be created or the resultant backlog of petitions.

We further believe that, as requested by Southeast Conference, Southeast Conference of Mayors, the Alaska Municipal League and municipalities, that a review of the standards should be undertaken. We view the Model Borough Boundaries standard to be a major disincentive for borough formation and feel it should be deleted from the Administrative Code. However, if there is to be such a thing as "model borough boundaries," they should have a complete review every five years to consider the changes in the economic climate affecting jobs, population shifts, education and the very ability of local government to operate efficiently and effectively.

We feel the process has evolved into something different from that envisioned by the founders of our Constitution. Alaska Statutes were developed as a guide to form boroughs. Those statutes are straightforward and clear. The development of Administrative Code standards by the DCED is, however, where the process begins to erode; one of them being the standard for the Model Borough Boundaries (3 AAC 110.190 (c)). In our opinion, this standard has been held to as high a standard and weighted as heavily in the decision making process as the Constitution or the Alaska Statutes.

The Commission states they are given broad latitude in decision-making, however, we do not see that power given under law, but instead only through Supreme Court decisions (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d, 92,98, Alaska, 1974 and *Valley's Borough Support Committee v. Local Boundary Commission*, 863 P.2d 232,234 Alaska, 1993). It is apparent to us that DCED has exercised that broad latitude to interpret whether standards are met to a degree that a petitioner cannot possibly meet if they have not first met the preconceived idea of DCED's concept of "how the state should look." A prime example is the recent denial of the only borough proposal to come before the Commission in over 10 years. Skagway borough proposal (September, 2002) demonstrated that it had much more "common interest" with its neighbor, the Yukon Territories, than it did with its neighbor, the Haines Borough. Yet, the petition was denied. The "common interests" with Haines was touted to be manifest, though testimony from representatives of both Skagway and Haines argued to the contrary. The Haines Borough even passed a resolution in support of a Skagway borough.

Absent any clear and convincing reason to deny Skagway's petition based on the standards, language was used, such as "*narrowly meets,*" *minimally met,*" "*in a narrow interpretation of,*" "*when applied in the proper regional context,*" "*when...standard is applied in an appropriately broad context,*" "*when applied in the broader regional context,*" and "*unjustifiably small,*" in the Preliminary Report (emphasis added). In the final decisional transcriptions, the Skagway petition was denied based on a number of points pulled from a dissenting opinion from an earlier Yakutat Borough formation. These points were not discussed by Commissioners in the public hearing from which the transcriptions were based. They were added after the fact.

It is interesting to note that in the Commission's first cut to forward to the legislature, the list of areas that could potentially form boroughs is based on economic ability. As much of this whole discussion centers on economics, we find it ironic that a community such as Skagway, having proven itself financially capable of supporting borough government and in light of increased pressure for areas to form boroughs, saw their petition denied by the Local Boundary Commission. The "future" decline of areas is used as a basis for exclusion from this list of eight, as well. This also seems confusing as the trend of increases in the Skagway area was disregarded during that hearing.

This current push for borough formation is based on action from legislators who are concerned with the transfer of education costs onto local governments and other economic factors. Let us not forget, however argued, that Impact Aid/PILT is indeed a local contribution and should be recognized as such. The state must provide incentives to form boroughs such as a less restrictive and tedious permitting process and should agree to be a partner in the development of local government entities.

It should be noted that there are 11 First Class or Home Rule cities in the list of eight potential boroughs to be forwarded to the Legislature. Those communities already support their own schools. Those small communities in outlying areas, as stated over and over in the report done by LBC staff, often are subsistence communities without the ability to pay for their own schools. Therefore, will we simply see the burden of supporting schools go from the State coffers to the Borough coffers, supported by the tax payers in the "wealthier" communities and/or simply surrounded by large expanses of uninhabited land, changing virtually nothing.

Mention is made throughout the LBCs public meetings regarding the lack of time with which to accomplish this task. We agree that it is unfortunate that an issue of such concern to the residents of the State, and which involves so many aspects of state and local government, should be required to be completed in such a short time, allowing no time for site visits and very little for public involvement and/or comments. The December 9<sup>th</sup> meeting briefly mentions face-to-face comments and travel to affected communities, but we have seen no sign of that to date. Without a public process that allows the opportunity and time to suggest alternatives and options about our own areas, much less the list of eight areas potentially forwarded to the Legislature, how can one reasonably and credibly answer one of the Commissioner's ill-defined questions as to whether the list of eight areas seem "out of whack?"

During the January 22, 2003 "listen only" meeting, reference was made to the inclusion of Kake and Angoon into the Glacier Bay Borough. On what basis was this idea formed? Has there been public comment requesting or suggesting this new configuration? Has there been any investigation into actual distance, transportation, communication and issues with these areas? More importantly, however, these types of suggestions show that the standards continue to be moving targets, leaving the public unsure as to when areas will be held to the strictest letter of the regulations (i.e. Model Borough Boundaries) and when the regulations will be disregarded substantially.

We are unclear as to why the decision was made to exclude areas that are partially in existing boroughs? Again, Skagway, attempted to accept the obligations of a borough government, but has been removed from the list that instead focuses on areas that have not (up to this point) actively stepped forward, for a number of various reasons. According to transcriptions, some of these decisions were made based on the "familiarity" of the Anchorage Chairman, to certain locales. If the rest of the Commission is not allowed adequate time to research this list on their own, this method seems tenuous at best, producing results based not on facts, but on summations.

We are concerned as to the State's long-range plans for those communities whose names will NOT be passed on to the Legislature. Will we simply continue to have some areas organized and others unorganized as now, simply changing

the configuration? Or rather, can we instead spend the time identifying incentives and flexible, evolving methods to accomplish borough formation across the entire state; methods that work positively for communities, rather than methods that are driven by fear of what the State or neighboring areas might do?

Until now, the State Legislature has been unwilling to serve as the Assembly of the Unorganized Borough. They have failed to provide the \$30,000 appropriation for Borough Feasibility studies under AS 44.33.840. The Local Boundary Commission spent much time discussing a cover letter meant to assure the people of Alaska that this report was given to the Legislature NOT to be used as a precursor to the State's requirement of a petition from the affected areas. However, the results of this report will have very little to do with the spirit in which the report is delivered, but rather in the spirit of how the Legislature decides to accept it. If the State of Alaska can establish a means to make uniform comparisons of the property tax base of municipal governments, it can certainly provide for clean and concise language in standards to be met to form boroughs.

To summarize, we believe that concentration must be given to the big picture. What is the overall goal and how do we get there in ways that benefit the residents of this State, as well as their local and State governments. We think it is unwise to proceed with a method that can only serve to continue to be met by a percentage of the State. We would propose addressing first the incentives or lack thereof, and the barriers that discourage or prohibit an area from borough formation. We would be happy to help identify specifics as they relate to these suggestions.

# ALASKA STATE LEGISLATURE

## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair



Official Business

Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

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DATE: April 3, 2003

TO: Senate Secretary

FROM: Senator Tom Wagoner, Chair  
Senate Community and Regional Affairs Committee

RE: Meeting Schedule: April 7 through April 11, 2003

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April 7: No meeting scheduled.

April 9: +1:30 - 3:30pm: Fahrenkamp, Room #203

++ Local Boundary Commission Presentation on Legislative Directive for  
Unorganized Borough Review

April 11: No meeting scheduled.

\* First Hearing  
+ Teleconferenced  
++ Testimony by invitation only

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

---

DATE: April 8, 2003

TO: Senate C&RA Committee Members

FROM: Senator Tom Wagoner *Tom*

RE: LBC Presentation on Borough Report

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As you know, the Local Boundary Commission will make a presentation to us on their Borough Report.

Please be aware, I have purposely not provided for public testimony on this report. It is a report to the committee; there is no action to be taken on this matter.

If there is any action taken, it will have to come in the form of a bill. At that point, the opportunity for public comment will be provided.

I am providing you again a copy of input that was previously provided to my office when the LBC presented their annual report. It is specific to this borough report.

RCUA  
2/12/03  
-129

**STATEMENT OF VIEWS ON BOUNDARY FORMATION IN ALASKA**

By

**Nancy (Cannington), Galstad and Kathie Wasserman, DBA SOLUTIONS Inc  
Former Local Boundary Commissioners (1995-2001)**

We believe everyone involved in the process of borough formation in Alaska finds the current process flawed, with no offer of incentives. We would request that the Local Boundary Commission include our comments in their February 19<sup>th</sup> report to the Alaska State Legislature in addressing this issue.

As former Commissioners on the Local Boundary Commission, we believe the process needs to be reviewed and *changed*. We are not alone in this belief, as Southeast Conference, the Southeast Conference of Mayors, the Alaska Municipal League and some municipalities, have recently passed resolutions that call for the establishment of more flexible boundaries. We support that resolution in that it requests a review of the regulations and standards under which the Model Borough Boundaries were established. The current process, based on the Model Borough Boundaries, attempts to *force* unrealistic borough boundaries upon huge areas that may encompass differing cultures and tribes, differing economic circumstances, and does not, in most cases, follow the Regional Education Attendance Areas (REAs) as mandated in AAC 3. 110.060(c).

The December 9<sup>th</sup> meeting includes mention that a few complaints have been received regarding the REAs. While Model Borough Boundaries are said to closely link with REA boundaries, only three of the eight actually do so. Further, REA complaints would probably not be directed to the Local Boundary Commission, but rather to the Alaska Department of Education. Even if problems do exist with REA boundaries, they do not affect nearly the number of people that problematic borough boundaries might.

The Commission Chairperson, in the December 9<sup>th</sup> meeting, acknowledged in passing, the resolution accepted by the Southeast Conference of Mayors, Southeast Conference and the Alaska Municipal League concerning the revisit and/or updating of the Model Borough Boundary study. However, the Commission then immediately proceeded with the list of potential borough areas based on that same current Model Borough Boundary study that was at issue with so many local government officials.

The Model Borough Boundaries were established in 1991, through a process of public hearings, held by a former Local Boundary Commission. The economic climate in Alaska was much different than today. The three major economic influences upon which the state relied for revenues (oil, fishing and timber) were still very healthy. Through regulation changes, declines and differing world markets, impacts have been felt in all Alaskan communities. As the State of

Alaska has had to rein in its spending habits, the burden and shortfall for many services has been shifted to local governments. Local sales tax revenues have been negatively impacted by e-commerce, while the Legislature has been considering a statewide sales tax, which would further erode the ability to tax locally. All this and more has happened since 1991. These changes have impacted not only local economies, but also population demographics due to the loss of jobs.

Changing factors in our State are many; population shifts, resource declines, economic changes, stronger acknowledgement of cultural ties, reapportionment, etc. As usual, the DCED staff, with regard to SB 359, has done an exemplary job of pulling so much information together in such a short amount of time. However, due to no fault of their own, much of the information is already outdated with regard to area conditions. If pertinent information, gathered a number of weeks ago is not current, this only reinforces the need for flexible standards that are based on changes in communities, not changes in Commissioners or Commissioners' changing interpretations.

The Local Boundary Commission seems to give little weight to these issues as they carry out the mandate of SB 359. In the December 9, 2002 meeting, the Commission Chairman recommended, with Commission concurrence, that the Model Borough Boundaries be adopted as a starting point for their discussion. Herein lies the problem. How is a solution possible if the "problem" is adopted as the starting point? The Alaska Constitution, Article X, Section 3, requires the entire state to be divided into boroughs, organized and unorganized. It further provides that each borough must embrace an area and population *with common interests to the maximum degree possible* (emphasis added). The Model Borough Boundary philosophy seems to contradict this constitutional standard.

The Alaska Constitution further, allows for *mergers and consolidations*. This standard appears to be ignored by DCED and the LBC when looking at borough formations. If areas are forced to encompass such huge areas to begin with, as the Model Borough Boundaries dictate, mergers and consolidations in the future would be impossible due to their unmanageable size.

We believe that the actual Commission process warrants change, as well. Law forbids LBC Commissioners from having ex-parte contact (3AAC 110.500) with *anyone other than DCED staff* concerning any pending petition/action before the Commission. DCED staff advises petitioners, assists with the petition process, researches, reviews and evaluates the petition. DCED then produces a Preliminary Report that is made public and allows for responsive comments. This is followed by a Final Report with recommendations to the Commission to adopt, deny, or adopt the petition with modifications.

Generally at the juncture between the Preliminary and Final Report, the Commission receives the first information it has seen on the petition. This comes

in the form of a stack of documents that includes all substantiating documentation (petition, maps, audit reports, independent studies, etc.) from the petitioner, written public comments (which at times can be substantial) the Preliminary Report with recommendations and the Final Report. This huge amount of paperwork (record, November 2001, Homer Annexation – 37 lbs. of paperwork) must be read, analyzed and compared to the recommendations of staff in a very short period of time by unpaid Commission appointees who have full-time jobs and families. Included in this time period is travel to and from the hearing site.

While we understand the need to limit *ex parte* contact, we believe that the Commission should be actively *involved* in the decision-making process as it develops. They should receive any materials at the time those materials are accepted for consideration by staff, and attend any required public hearings held within the affected areas. This would allow them the opportunity to receive a fair and balanced picture of the proceedings rather than relying on the information once the petition process, absent the final public hearing, is completed.

One suggestion might be to place the Commission under the Department of Law, as the Commission is deemed to be a *quasi-judicial* body. The legislature needs to provide more staff positions as the huge workload currently rests on one staff member and his technical assistant. Absent the institutional memory and tremendous dedication of this 23-year LBC employee and his assistant to handle the workload of many, one cannot imagine the void that would be created or the resultant backlog of petitions.

We further believe that, as requested by Southeast Conference, Southeast Conference of Mayors, the Alaska Municipal League and municipalities, that a review of the standards should be undertaken. We view the Model Borough Boundaries standard to be a major disincentive for borough formation and feel it should be deleted from the Administrative Code. However, if there is to be such a thing as "model borough boundaries," they should have a complete review every five years to consider the changes in the economic climate affecting jobs, population shifts, education and the very ability of local government to operate efficiently and effectively.

We feel the process has evolved into something different from that envisioned by the founders of our Constitution. Alaska Statutes were developed as a guide to form boroughs. Those statutes are straightforward and clear. The development of Administrative Code standards by the DCED is, however, where the process begins to erode; one of them being the standard for the Model Borough Boundaries (3 AAC 110.190 (c)). In our opinion, this standard has been held to as high a standard and weighted as heavily in the decision making process as the Constitution or the Alaska Statutes.

The Commission states they are given broad latitude in decision-making, however, we do not see that power given under law, but instead only through Supreme Court decisions (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d, 92,98, Alaska, 1974 and *Valley's Borough Support Committee v. Local Boundary Commission*, 863 P.2d 232,234 Alaska, 1993). It is apparent to us that DCED has exercised that broad latitude to interpret whether standards are met to a degree that a petitioner cannot possibly meet if they have not first met the preconceived idea of DCED's concept of "how the state should look." A prime example is the recent denial of the only borough proposal to come before the Commission in over 10 years. Skagway borough proposal (September, 2002) demonstrated that it had much more "common interest" with its neighbor, the Yukon Territories, than it did with its neighbor, the Haines Borough. Yet, the petition was denied. The "common interests" with Haines was touted to be manifest, though testimony from representatives of both Skagway and Haines argued to the contrary. The Haines Borough even passed a resolution in support of a Skagway borough.

Absent any clear and convincing reason to deny Skagway's petition based on the standards, language was used, such as "*narrowly meets,*" *minimally met,*" "*in a narrow interpretation of,*" "*when applied in the proper regional context,*" "*when...standard is applied in an appropriately broad context,*" "*when applied in the broader regional context,*" and "*unjustifiably small,*" in the Preliminary Report (emphasis added). In the final decisional transcriptions, the Skagway petition was denied based on a number of points pulled from a dissenting opinion from an earlier Yakutat Borough formation. These points were not discussed by Commissioners in the public hearing from which the transcriptions were based. They were added after the fact.

It is interesting to note that in the Commission's first cut to forward to the legislature, the list of areas that could potentially form boroughs is based on economic ability. As much of this whole discussion centers on economics, we find it ironic that a community such as Skagway, having proven itself financially capable of supporting borough government and in light of increased pressure for areas to form boroughs, saw their petition denied by the Local Boundary Commission. The "future" decline of areas is used as a basis for exclusion from this list of eight, as well. This also seems confusing as the trend of increases in the Skagway area was disregarded during that hearing.

This current push for borough formation is based on action from legislators who are concerned with the transfer of education costs onto local governments and other economic factors. Let us not forget, however argued, that Impact Aid/PILT is indeed a local contribution and should be recognized as such. The state must provide incentives to form boroughs such as a less restrictive and tedious permitting process and should agree to be a partner in the development of local government entities.

It should be noted that there are 11 First Class or Home Rule cities in the list of eight potential boroughs to be forwarded to the Legislature. Those communities already support their own schools. Those small communities in outlying areas, as stated over and over in the report done by LBC staff, often are subsistence communities without the ability to pay for their own schools. Therefore, will we simply see the burden of supporting schools go from the State coffers to the Borough coffers, supported by the tax payers in the "wealthier" communities and/or simply surrounded by large expanses of uninhabited land, changing virtually nothing.

Mention is made throughout the LBCs public meetings regarding the lack of time with which to accomplish this task. We agree that it is unfortunate that an issue of such concern to the residents of the State, and which involves so many aspects of state and local government, should be required to be completed in such a short time, allowing no time for site visits and very little for public involvement and/or comments. The December 9<sup>th</sup> meeting briefly mentions face-to-face comments and travel to affected communities, but we have seen no sign of that to date. Without a public process that allows the opportunity and time to suggest alternatives and options about our own areas, much less the list of eight areas potentially forwarded to the Legislature, how can one reasonably and credibly answer one of the Commissioner's ill-defined questions as to whether the list of eight areas seem "out of whack?"

During the January 22, 2003 "listen only" meeting, reference was made to the inclusion of Kake and Angoon into the Glacier Bay Borough. On what basis was this idea formed? Has there been public comment requesting or suggesting this new configuration? Has there been any investigation into actual distance, transportation, communication and issues with these areas? More importantly, however, these types of suggestions show that the standards continue to be moving targets, leaving the public unsure as to when areas will be held to the strictest letter of the regulations (i.e. Model Borough Boundaries) and when the regulations will be disregarded substantially.

We are unclear as to why the decision was made to exclude areas that are partially in existing boroughs? Again, Skagway, attempted to accept the obligations of a borough government, but has been removed from the list that instead focuses on areas that have not (up to this point) actively stepped forward, for a number of various reasons. According to transcriptions, some of these decisions were made based on the "familiarity" of the Anchorage Chairman, to certain locales. If the rest of the Commission is not allowed adequate time to research this list on their own, this method seems tenuous at best, producing results based not on facts, but on summations.

We are concerned as to the State's long-range plans for those communities whose names will NOT be passed on to the Legislature. Will we simply continue to have some areas organized and others unorganized as now, simply changing

the configuration? Or rather, can we instead spend the time identifying incentives and flexible, evolving methods to accomplish borough formation across the entire state; methods that work positively for communities, rather than methods that are driven by fear of what the State or neighboring areas might do?

Until now, the State Legislature has been unwilling to serve as the Assembly of the Unorganized Borough. They have failed to provide the \$30,000 appropriation for Borough Feasibility studies under AS 44.33.840. The Local Boundary Commission spent much time discussing a cover letter meant to assure the people of Alaska that this report was given to the Legislature NOT to be used as a precursor to the State's requirement of a petition from the affected areas. However, the results of this report will have very little to do with the spirit in which the report is delivered, but rather in the spirit of how the Legislature decides to accept it. If the State of Alaska can establish a means to make uniform comparisons of the property tax base of municipal governments, it can certainly provide for clean and concise language in standards to be met to form boroughs.

To summarize, we believe that concentration must be given to the big picture. What is the overall goal and how do we get there in ways that benefit the residents of this State, as well as their local and State governments. We think it is unwise to proceed with a method that can only serve to continue to be met by a percentage of the State. We would propose addressing first the incentives or lack thereof, and the barriers that discourage or prohibit an area from borough formation. We would be happy to help identify specifics as they relate to these suggestions.

**REMARKS TO THE SENATE COMMUNITY & REGIONAL  
AFFAIRS COMMITTEE OF THE FIRST SESSION OF THE  
23RD ALASKA LEGISLATURE**

**State Capitol, Room 203, Fahrenkamp Room**

**April 9, 2003 – 1:30 p.m.**

**Senate Community and Regional Affairs Committee membership**

**CHAIR: Senator Wagoner**

**VICE-CHAIR: Senator Taylor**

**MEMBER: Senator Stevens**

**MEMBER: Senator Lincoln**

**MEMBER: Senator Elton**

Good afternoon. I am Darroll Hargraves, Chair of the Alaska Local Boundary Commission. I am a resident of Wasilla.

There are three other members of the Commission with me this afternoon. They are:

- ✕ ▪ Bob Hicks from Seward;
- ✕ ▪ Georgianna Zimmerle from Ketchikan; and
- ✕ ▪ Tony Nakazawa from Fairbanks.

There is a fifth member of the Commission who could not be present today. He is Bob Harcharek from Barrow.

I also want to introduce representatives of the Department of Community and Economic Development:

- Gene Kane, Division Director, and
- Dan Bockhorst, who serves as staff to the Local Boundary Commission.

The Commission is here today at the invitation of the Senate Community and Regional Affairs Committee to present information about the recently completed review of the unorganized borough.

Last year, the legislature passed Senate Bill 359 by unanimous vote among all members of the Senate and House that were present. The legislation was signed into law as Chapter 53, Session Laws of Alaska, 2002.

The law directed the Local Boundary Commission to review the unorganized borough in terms of the standards for borough incorporation. It also directed the Local Boundary Commission to report to the 2003 Legislature those unorganized areas that meet the standards for borough incorporation.

Four members of the Commission that participated in the review of the unorganized borough are no longer on the Commission. It is fitting that I recognize the hard work of those former Commissioners regarding this matter. Those former members are Kevin Waring, Allan Tesche, Ardith Lynch, and Myrna Gardner. J

FD/S

The Commission began its review shortly after the law took effect on September 17 of last year. The Commission endeavored to promote broad public awareness about and participation in the review.

The Commission met six times concerning the unorganized borough review

- October 22, 2002
- November 13, 2002
- December 9, 2002
- January 22, 2003
- February 8, 2003 and
- February 11, 2003.

During the February 8 meeting, the Commission held a statewide hearing on the matter and received testimony from residents of twenty-seven communities. 110 individuals and organizations submitted written comments on the matter to the Commission.

All written comments, along with a transcript of the Commission's meetings of December 9, January 22, February 8, and February 11 are part of the record reviewed by the Commission.


The Commission filed its report with the Legislature on February 19 of this year. A copy of the report was provided to each legislator. The report and a copy of the correspondence and transcripts have also been provided to the Secretary of the Senate and the Chief Clerk of the House.

Again, four of the five current members of the Commission did not participate in the review of the unorganized borough. However, the currently appointed members of the Commission have had the opportunity to fully review the February 19 report on the unorganized borough. The Commission met two days ago to address the matter at length.

Chapter 53, SLA 2002 imposed on the Commission a duty only to make a determination as to which unorganized areas meet borough standards. The law was clear that the Commission's report to the legislature did not constitute a formal recommendation for incorporation of boroughs in any areas under Article X, Section 12 of the constitution. As such, the Commission's duties under Chapter 53 have been fulfilled. The Commission will address any future directives by the legislature regarding in accordance with the law.

Dan Bockhorst, staff to the Commission, is prepared to provide a summary of the Commission's review of the unorganized borough. The summary that he will provide reflects the current views of the Commission.

Mr. Chairman, with your permission, Mr. Bockhorst will provide you with a summary of the study and report.



**Local Boundary Commission**

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Presented to the  
Senate Community and Regional Affairs Committee  
April 9, 2003

- 1. LBC's duty to review the unorganized borough & study local government boundary problems;**
- 2. Key background information about establishment of boroughs;**
- 3. Significant conclusions reached by the LBC regarding borough establishment;**
- 4. Unorganized areas that meet borough incorporation standards.**

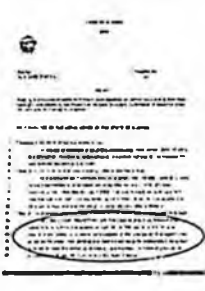
# Part I

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## Duty of the LBC to Review the Unorganized Borough & Study Local Government Boundary Problems




CHAPTER 63,  
SESSION LAWS OF ALASKA, 2002




**"The Local Boundary Commission shall review conditions in the unorganized borough. ... the commission shall report to the legislature the areas it has identified that meet the standards for incorporation."**

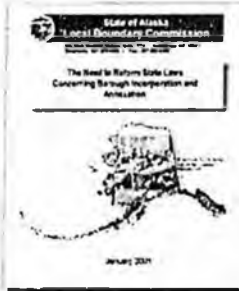


AS 44.33.812





**"The Local Boundary Commission shall make studies of local government boundary problems ..."**






**"Shortcomings in the manner in which the borough concept has been implemented" were studied by the Commission in 2001.**






**"The Commission considers the lack of a strong State policy promoting the extension of borough government to be the most pressing 'local government boundary problem' facing Alaska."**


## Part II




### Key Background Information About Establishment of Boroughs




### Constitutional Background





STATE OF ALASKA CONSTITUTIONAL CONVENTION  
UNIVERSITY OF ALASKA  
NOV. 8, 1955 - FEB. 8, 1956







**The Committee on Local Government met 44 times before presenting the Local Government Article to the Convention.**

**Delegates formally considered the Local Government Article on January 19, 20, and 30, 1956.**





**John Rosswog, Chair, Committee on Local Government**

**"... we allow for the boroughs remaining unorganized until they are able to take on their local government functions."**

*Alaska Constitution Convention Proceedings, Alaska Legislative Council, page 2612*



Delegate Barrie White

*Alaska Constitution Convention Proceedings, Alaska Legislative Council, page 2650*

"Haven't we here inducement to an area to remain an unorganized borough and to get the state to provide all the necessary functions?"

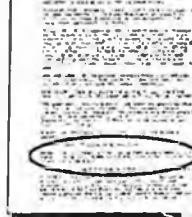


Victor Rivers, Committee on Local Government member

*Alaska Constitution Convention Proceedings, page 2650*

"... it was our thought there would be enough inducement for them to organize and exercise home rule so that as time went on they would gradually all become incorporated boroughs."

Maynard Londborg, Local Government Committee member, added that boroughs could be organized on a voluntary or mandatory basis, but the Committee desired the former.



*Alaska Constitution Convention Proceedings, Alaska Legislative Council, page 2673*

Delegate James Hurley

"Is my idea correct that no organized borough will become effectuated without the voice of the people in the area?"



Vic Fischer, Secretary, Local Government Committee

*Alaska Constitution Convention Proceedings, Alaska Legislative Council, page 2673*

"The answer, I think, would be 'no'. ...when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own government."




*Alaska Constitution Convention Proceedings, Alaska Legislative Council, page 2674*

Vic Fischer, continued


"... we don't actually visualize that the state will force boroughs to organize, since we feel that they should be set up on such a basis that there will be enough inducement for each one to organize."



**Article X was adopted by the Convention on January 30, 1956.**




**The Constitution was ratified by voters on April 24, 1956 and took effect January 3, 1959.**  
*2:1 ratio*




**ALASKA CONSTITUTION ARTICLE X**  
Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

**The legislature has a duty under the constitution to set State policy regarding establishment of boroughs.**




**ALASKA CONSTITUTION ARTICLE X**  
Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

**Boroughs – organized or unorganized – must be established throughout Alaska.**



**ALASKA CONSTITUTION ARTICLE X**  
Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

**All boroughs – organized and unorganized – must be established according to standards and procedures enacted by the legislature.**



**The 1961 Legislature set the initial State policy regarding establishment of boroughs.**  
*Local option*

1961 ACT

- Procedures for incorporation of organized boroughs by local option were enacted.

1961 ACT


- Standards for incorporation of organized boroughs were enacted.

CH. 196 SLA 1961

- Independent school districts formed under Territorial law – but not sanctioned under Alaska's constitution – were given two years to be integrated into boroughs.


- A single unorganized borough was established encompassing all of Alaska not within organized boroughs.
- 1 BORO  
656,000 sq miles

**State policy makers anticipated that the Borough Act of 1961 would be generally ineffective in promoting borough formation.**




Jay Hammond, State Representative at the time of the Borough Act of 1961.

**"Attractive enough on paper, in practice, the organized borough concept had little appeal to most communities. After all, why should they tax themselves to pay for services received from the state, gratis?"**




Roger W. Pegues, Director, Local Affairs Agency, 1960-1962

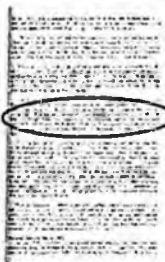
**"It was generally believed [by the drafters and supporters of the original Borough Act of 1951] that the 1963 legislature would adopt a mandatory incorporation law."**




*The Metropolitan Experiment in Alaska - A Study of Borough Government, page 92*



**"... like the constitution writers, the authors of the 1961 act were wrong" (Alaskans were not generally induced to voluntary borough incorporation).**




*Alaska's Urban and Rural Governments, page 43*




John Rader, first State A.G., State Rep. (1959, 1963-1966), State Senator (1969 - 1978)


**"... the moment [a proposed borough] began to have an immediate tax equalization feature, the borough had two chances for success - slim and none."**



*The Metropolitan Experiment in Alaska - A Study of Borough Government, page 91*

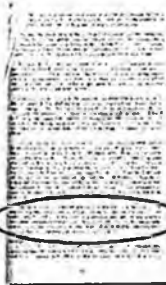



**Arguments against boroughs in the early 1960s were similar to those voiced today.**




*Alaska's Urban and Rural Governments, page 43*



**"School district officials wanted to avoid loss of autonomy, city residents saw no need for a new layer of government and taxation, and Alaskans outside cities and school districts wanted to preserve their tax-free status."**

**As anticipated, the Borough Act of 1961 proved to be generally ineffective in promoting borough formation.**




- In the two years allowed, none of the nine regions containing independent school districts had formed boroughs.
- The deadline for integration of independent school districts into boroughs was just months away when the 1963 Legislature convened.


*The Metropolitan Experiment in Alaska, page 93*

“... the greatest unresolved political problem of the State was the matter of boroughs. ... A great opportunity to create something of value could be lost.”

John Rader




In 1963, Representative Rader sponsored HB 90 mandating that the nine election districts encompassing independent school districts must incorporate boroughs by January 1, 1964.






Following amendment to exclude one of the nine areas, HB 90 was enacted.

*excluded one was  
ICY STRAITS/LYNN  
CANAL AREA*



**Ch. 52, SLA, 1963 mandated boroughs in:**


- Ketchikan
- Sitka
- Juneau
- Kodiak Island
- Kenai Peninsula
- Anchorage
- Mat-Su
- Fairbanks






**Section 1. Declaration of Intent.**

**“It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions.”**

*Chapter 52,  
Session Laws of  
Alaska, 1963*







*Chapter 52,  
Session Laws of  
Alaska, 1963*

Section 1. Declaration of Intent continued

**"... No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation."**





In 1964, the Alaska Supreme Court characterized the 1963 Mandatory Borough Act as (emphasis added):



"An additional means for accomplishing the constitutional objective of establishing borough government was provided by chapter 52 SLA 1963. Here the legislature did not leave the question of the formation of boroughs to local option, as it did in the 1961 statute."

Walters v. Case, 394 P.2d 870 (Alaska 1964)







John Rader


*The Metropolitan Experiment in Alaska, page 81*

**"It was only after a series of repeated failures that in 1963 the State legislature finally exercised the authority which had previously been delegated to others."**




**Despite its general ineffectiveness, the State returned to the policy of delegating borough establishment to local residents after 1963.**

- 
- In 44 years of statehood, boroughs have formed under the local option process in areas encompassing just 4% of Alaskans.
  - In contrast, the eight boroughs formed under the 1963 Mandatory Borough Act encompass 83% of Alaskans.




- Incentives to incorporate boroughs were generally inadequate in the early 1960s.
- Since then, borough incentives have diminished substantially.



Excerpts from:  
Municipal Government in  
Alaska - WHITE PAPER  
< <http://www.akml.org/>>

Alaska Municipal League


- "The state has failed to continue the evolution of local government directed by the Constitution. Article X of the Constitution states, "The entire state shall be divided into boroughs, organized and unorganized."



Excerpts from:  
Municipal Government in  
Alaska - WHITE PAPER  
< <http://www.akml.org/>>

Alaska Municipal League


- "Alaska is the only state with no local government for a large geographical part of the state."



Excerpts from:  
Municipal Government in  
Alaska - WHITE PAPER  
< <http://www.akml.org/>>

Alaska Municipal League


- "Article X of the Constitution also states, 'The purpose of this article is to provide for maximum local self government with a minimum of local government units.' In the Unorganized Borough the opposite is true. There is currently a minimum of local self-government with a maximum of local government units."




Excerpts from:  
Municipal Government in  
Alaska - WHITE PAPER  
< <http://www.akml.org/>>

Alaska Municipal League

- "Adding borough government would not be a new, expensive layer of government. Local services are currently provided by the state and a patchwork of over 400 separate [entities]. Current service delivery is neither inexpensive or efficient, due to the lack of coordinated service delivery."



## Part III



### Significant Conclusions Reached by the Commission Regarding Establishment of Borough in Alaska

**CERTAIN FUNDAMENTAL  
REQUIREMENTS OF  
ARTICLE X, SECTION 3  
REMAIN UNFULFILLED**

**Standards** for establishment of unorganized boroughs have never been enacted.

Procedures for establishment of unorganized boroughs have yet to be enacted.


The single "residual" unorganized borough encompasses an area and population with highly diverse interests, not common interests as required by the constitution.

**BOROUGHES PROMOTE  
EQUITY AMONG ALASKANS**

**Boroughs Promote Equity**  
Art. I, Sec. 1 requires equal responsibility among Alaskans. Yet, statutory law singles out organized boroughs and home rule & first class cities in the unorganized borough by requiring them to provide significant support for fundamental services such as public education.  
*EQUAL PROT or  
EQUAL RESPON*

Local contributions required of municipal school districts under AS 14.17.410 reduce education foundation funding that would otherwise be paid by the State to boroughs and home rule & first class cities in the unorganized borough.

Reduction of funding conflicts with the express intent of the 1963 Mandatory Borough Act.



**"... No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation."**




The requirement for local contributions for schools is, in effect, a \$160 million annual State tax levied only on organized boroughs and home rule & first class cities in the unorganized borough.

In the absence of standards and procedures to determine whether unorganized areas have the capacity to take on responsibility for their own government, the current disparate treatment of Alaskans lacks a rational basis.



**BOROUGHS PROMOTE  
MAXIMUM LOCAL  
SELF-GOVERNMENT**

Recall the comments of John Rader:



**"... A great opportunity to create something of value could be lost."**

As noted earlier, the 1963 Legislature mandated eight boroughs, in part, to provide for maximum local self-government.



**"It is the intention of the legislature to provide for maximum local self-government ..."**

In 1974, the Alaska Supreme Court construed the section of the constitution promoting maximum local self-government to favor upholding borough formation. Specifically, the court stated:

"Our review of the record has been undertaken in light of the statement of purpose accompanying article X, the local government article of the Alaska Constitution. Section 1 declares in part:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions . . .

We read this to favor upholding organization of boroughs ..."

Mobil Oil Corp. v. LBC, 518 P.2d 92, 99 (Alaska 1974)

**"Our constitution encourages their creation. Alaska const. Art. X, § 1."**

Mobil Oil Corp. v. LBC, 518 P.2d 92, 101 (Alaska 1974)

*Boroughs Promote Maximum*

Practical examples of the manner in which boroughs promote maximum local self-government include:

- providing capacity to supplement State funding for fundamental regional services like education (REAs are dependent upon the State);

- establishing an entity with ability to issue bonds to construct or rebuild regional facilities such as schools (REAs lack authority to issue bonds);
- creating a government to levy taxes to provide services not otherwise available (boroughs are the only regional governmental unit in Alaska with taxing power);


*Local Self Government*

*Boroughs Promotion*

- establishing a municipal platting authority (the State has the burden of serving as the platting authority in the unorganized borough outside the relatively few cities that exercise such power);
- offering a mechanism to provide alcohol control on a regional basis (currently available only on a community basis in the unorganized borough);

- providing the capacity to participate in the National Flood Insurance Program (currently limited in the unorganized borough to areas within city government boundaries).

## Part IV



### Unorganized Areas that Meet Borough Standards

**Unorganized Areas of Alaska that Meet Borough Incorporation Standards**  
A Report by the Alaska Local Boundary Commission to the Alaska Legislature Pursuant to Chapter 11, Section 106 of Alaska 2002 February 2003

1. Aleutians West;
2. Upper Tanana Basin;
3. Copper River Basin;
4. Prince William Sound;
5. Glacier Bay;
6. Chatham;
7. Wrangell-Petersburg



1. Population size and stability;
2. Regional commonalities;
3. Economic capacity;
4. Broad public interest.

- POP. SIZE & STABILITY*
- The 7 regions had populations in 2000 ranging from 1,354 to 6,964.
  - Each region exceeded the presumptive minimum population standard of 1,000.
  - 1980 – 2000 population trends were reasonably stable in all regions except Aleutians West.
  - When adjusted for base closures, Aleutians West population was reasonably stable.
- ADJUSTED FOR BASE CLOSURES*

**Regional Common Interests**

Each area conforms to model boundaries which were defined on the basis of regional common interests including:

- natural geography;
- social, cultural & economic characteristics;
- transportation facilities;

**Regional Common Interests**

4. communications and exchange;
5. consideration of REAA boundaries; and
6. presence of multiple communities.

*Economic Capacity*

**Economic Capacity**

LBC considered the following factors in judging the economic capacity of the regions:

- mandatory powers of boroughs;
- anticipated borough expenses;
- projected borough revenues;

*Economic Cap.*

**Economic Capacity**


4. ability to generate income;
5. economic base, land use, & development;
6. property valuations;
7. personal income; and
8. prior borough feasibility studies.

*Broad Public Interest*

**Broad Public Interest**

Broad public interest is served by:

- maximum local self-government;
- promoting a minimum of local government units; and
- relieving the State of responsibility for local services.



**Local Boundary Commission**

**SUMMARY OF RECOMMENDATIONS**

**LOCAL BOUNDARY COMMISSION**

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business


Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

---

DATE: April 8, 2003

TO: Senate C&RA Committee Members

FROM: Senator Tom Wagoner 

RE: LBC Presentation on Borough Report

---

As you know, the Local Boundary Commission will make a presentation to us on their Borough Report.

Please be aware, I have purposely not provided for public testimony on this report. It is a report to the committee; there is no action to be taken on this matter.

If there is any action taken, it will have to come in the form of a bill. At that point, the opportunity for public comment will be provided.

I am providing you again a copy of input that was previously provided to my office when the LBC presented their annual report. It is specific to this borough report.

# CORRECTION

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



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

*Regional Communities*

Each area conforms to model boundaries which were defined on the basis of regional common interests including:

- natural geography;
- social, cultural & economic characteristics;
- transportation facilities;

*Regional Communities*

4. communications and exchange;
5. consideration of REAA boundaries; and
6. presence of multiple communities.

*Economic Capacity*

LBC considered the following factors in judging the economic capacity of the regions:

- mandatory powers of boroughs;
- anticipated borough expenses;
- projected borough revenues;

*Economic Cap.*


4. ability to generate income;
5. economic base, land use, & development;
6. property valuations;
7. personal income; and
8. prior borough feasibility studies.

*Broad Pub. Int.*

*Broad Public Interest*

Broad public interest is served by:

- maximum local self-government;
- promoting a minimum of local government units; and
- relieving the State of responsibility for local services.



Local Boundary Commission

**SUMMARY OF UNORDERED  
LBC REVIEW**

50% lived w/in city limits  
now only 17% live w/in city limits.

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business


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RCUA  
2/12/03  
-WJ

**STATEMENT OF VIEWS ON BOUNDARY FORMATION IN ALASKA**

By

**Nancy (Cannington) Galstad and Kathie Wasserman, DBA SOLUTIONS Inc  
Former Local Boundary Commissioners (1995-2001)**

We believe everyone involved in the process of borough formation in Alaska finds the current process flawed, with no offer of incentives. We would request that the Local Boundary Commission include our comments in their February 19<sup>th</sup> report to the Alaska State Legislature in addressing this issue.

As former Commissioners on the Local Boundary Commission, we believe the process needs to be reviewed and *changed*. We are not alone in this belief, as Southeast Conference, the Southeast Conference of Mayors, the Alaska Municipal League and some municipalities, have recently passed resolutions that call for the establishment of more flexible boundaries. We support that resolution in that it requests a review of the regulations and standards under which the Model Borough Boundaries were established. The current process, based on the Model Borough Boundaries, attempts to *force* unrealistic borough boundaries upon huge areas that may encompass differing cultures and tribes, differing economic circumstances, and does not, in most cases, follow the Regional Education Attendance Areas (REAs) as mandated in AAC 3. 110.060(c).

The December 9<sup>th</sup> meeting includes mention that a few complaints have been received regarding the REAs. While Model Borough Boundaries are said to closely link with REA boundaries, only three of the eight actually do so. Further, REA complaints would probably not be directed to the Local Boundary Commission, but rather to the Alaska Department of Education. Even if problems do exist with REA boundaries, they do not affect nearly the number of people that problematic borough boundaries might.

The Commission Chairperson, in the December 9<sup>th</sup> meeting, acknowledged in passing, the resolution accepted by the Southeast Conference of Mayors, Southeast Conference and the Alaska Municipal League concerning the revisit and/or updating of the Model Borough Boundary study. However, the Commission then immediately proceeded with the list of potential borough areas based on that same current Model Borough Boundary study that was at issue with so many local government officials.

The Model Borough Boundaries were established in 1991, through a process of public hearings, held by a former Local Boundary Commission. The economic climate in Alaska was much different than today. The three major economic influences upon which the state relied for revenues (oil, fishing and timber) were still very healthy. Through regulation changes, declines and differing world markets, impacts have been felt in all Alaskan communities. As the State of

Alaska has had to rein in its spending habits, the burden and shortfall for many services has been shifted to local governments. Local sales tax revenues have been negatively impacted by e-commerce, while the Legislature has been considering a statewide sales tax, which would further erode the ability to tax locally. All this and more has happened since 1991. These changes have impacted not only local economies, but also population demographics due to the loss of jobs.

Changing factors in our State are many; population shifts, resource declines, economic changes, stronger acknowledgement of cultural ties, reapportionment, etc. As usual, the DCED staff, with regard to SB 359, has done an exemplary job of pulling so much information together in such a short amount of time. However, due to no fault of their own, much of the information is already outdated with regard to area conditions. If pertinent information, gathered a number of weeks ago is not current, this only reinforces the need for flexible standards that are based on changes in communities, not changes in Commissioners or Commissioners' changing interpretations.

The Local Boundary Commission seems to give little weight to these issues as they carry out the mandate of SB 359. In the December 9, 2002 meeting, the Commission Chairman recommended, with Commission concurrence, that the Model Borough Boundaries be adopted as a starting point for their discussion. Herein lies the problem. How is a solution possible if the "problem" is adopted as the starting point? The Alaska Constitution, Article X, Section 3, requires the entire state to be divided into boroughs, organized and unorganized. It further provides that each borough must embrace an area and population *with common interests to the maximum degree possible* (emphasis added). The Model Borough Boundary philosophy seems to contradict this constitutional standard.

The Alaska Constitution further, allows for *mergers and consolidations*. This standard appears to be ignored by DCED and the LBC when looking at borough formations. If areas are forced to encompass such huge areas to begin with, as the Model Borough Boundaries dictate, mergers and consolidations in the future would be impossible due to their unmanageable size.

We believe that the actual Commission process warrants change, as well. Law forbids LBC Commissioners from having ex-parte contact (3AAC 110.500) with *anyone other than DCED staff* concerning any pending petition/action before the Commission. DCED staff advises petitioners, assists with the petition process, researches, reviews and evaluates the petition. DCED then produces a Preliminary Report that is made public and allows for responsive comments. This is followed by a Final Report with recommendations to the Commission to adopt, deny, or adopt the petition with modifications.

Generally at the juncture between the Preliminary and Final Report, the Commission receives the first information it has seen on the petition. This comes

in the form of a stack of documents that includes all substantiating documentation (petition, maps, audit reports, independent studies, etc.) from the petitioner, written public comments (which at times can be substantial) the Preliminary Report with recommendations and the Final Report. This huge amount of paperwork (record, November 2001, Homer Annexation – 37 lbs. of paperwork) must be read, analyzed and compared to the recommendations of staff in a very short period of time by unpaid Commission appointees who have full-time jobs and families. Included in this time period is travel to and from the hearing site.

While we understand the need to limit *ex parte* contact, we believe that the Commission should be actively *involved* in the decision-making process as it develops. They should receive any materials at the time those materials are accepted for consideration by staff, and attend any required public hearings held within the affected areas. This would allow them the opportunity to receive a fair and balanced picture of the proceedings rather than relying on the information once the petition process, absent the final public hearing, is completed.

One suggestion might be to place the Commission under the Department of Law, as the Commission is deemed to be a *quasi-judicial* body. The legislature needs to provide more staff positions as the huge workload currently rests on one staff member and his technical assistant. Absent the institutional memory and tremendous dedication of this 23-year LBC employee and his assistant to handle the workload of many, one cannot imagine the void that would be created or the resultant backlog of petitions.

We further believe that, as requested by Southeast Conference, Southeast Conference of Mayors, the Alaska Municipal League and municipalities, that a review of the standards should be undertaken. We view the Model Borough Boundaries standard to be a major disincentive for borough formation and feel it should be deleted from the Administrative Code. However, if there is to be such a thing as "model borough boundaries," they should have a complete review every five years to consider the changes in the economic climate affecting jobs, population shifts, education and the very ability of local government to operate efficiently and effectively.

We feel the process has evolved into something different from that envisioned by the founders of our Constitution. Alaska Statutes were developed as a guide to form boroughs. Those statutes are straightforward and clear. The development of Administrative Code standards by the DCED is, however, where the process begins to erode; one of them being the standard for the Model Borough Boundaries (3 AAC 110.190 (c)). In our opinion, this standard has been held to as high a standard and weighted as heavily in the decision making process as the Constitution or the Alaska Statutes.

The Commission states they are given broad latitude in decision-making, however, we do not see that power given under law, but instead only through Supreme Court decisions (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d, 92,98, Alaska, 1974 and *Valley's Borough Support Committee v. Local Boundary Commission*, 863 P.2d 232,234 Alaska, 1993). It is apparent to us that DCED has exercised that broad latitude to interpret whether standards are met to a degree that a petitioner cannot possibly meet if they have not first met the preconceived idea of DCED's concept of "how the state should look." A *prime* example is the recent denial of the only borough proposal to come before the Commission in over 10 years. Skagway borough proposal (September, 2002) demonstrated that it had much more "common interest" with its neighbor, the Yukon Territories, than it did with its neighbor, the Haines Borough. Yet, the petition was denied. The "common interests" with Haines was touted to be manifest, though testimony from representatives of both Skagway and Haines argued to the contrary. The Haines Borough even passed a resolution in support of a Skagway borough.

Absent any clear and convincing reason to deny Skagway's petition based on the standards, language was used, such as "*narrowly meets,*" *minimally met,*" "*in a narrow interpretation of,*" "*when applied in the proper regional context,*" "*when...standard is applied in an appropriately broad context,*" "*when applied in the broader regional context,*" and "*unjustifiably small,*" in the Preliminary Report (emphasis added). In the final decisional transcriptions, the Skagway petition was denied based on a number of points pulled from a dissenting opinion from an earlier Yakutat Borough formation. These points were not discussed by Commissioners in the public hearing from which the transcriptions were based. They were added after the fact.

It is interesting to note that in the Commission's first cut to forward to the legislature, the list of areas that could potentially form boroughs is based on economic ability. As much of this whole discussion centers on economics, we find it ironic that a community such as Skagway, having proven itself financially capable of supporting borough government and in light of increased pressure for areas to form boroughs, saw their petition denied by the Local Boundary Commission. The "future" decline of areas is used as a basis for exclusion from this list of eight, as well. This also seems confusing as the trend of increases in the Skagway area was disregarded during that hearing.

This current push for borough formation is based on action from legislators who are concerned with the transfer of education costs onto local governments and other economic factors. Let us not forget, however argued, that Impact Aid/PILT is indeed a local contribution and should be recognized as such. The state must provide incentives to form boroughs such as a less restrictive and tedious permitting process and should agree to be a partner in the development of local government entities.

It should be noted that there are 11 First Class or Home Rule cities in the list of eight potential boroughs to be forwarded to the Legislature. Those communities already support their own schools. Those small communities in outlying areas, as stated over and over in the report done by LBC staff, often are subsistence communities without the ability to pay for their own schools. Therefore, will we simply see the burden of supporting schools go from the State coffers to the Borough coffers, supported by the tax payers in the "wealthier" communities and/or simply surrounded by large expanses of uninhabited land, changing virtually nothing.

Mention is made throughout the LBCs public meetings regarding the lack of time with which to accomplish this task. We agree that it is unfortunate that an issue of such concern to the residents of the State, and which involves so many aspects of state and local government, should be required to be completed in such a short time, allowing no time for site visits and very little for public involvement and/or comments. The December 9<sup>th</sup> meeting briefly mentions face-to-face comments and travel to affected communities, but we have seen no sign of that to date. Without a public process that allows the opportunity and time to suggest alternatives and options about our own areas, much less the list of eight areas potentially forwarded to the Legislature, how can one reasonably and credibly answer one of the Commissioner's ill-defined questions as to whether the list of eight areas seem "out of wack?"

During the January 22, 2003 "listen only" meeting, reference was made to the inclusion of Kake and Angoon into the Glacier Bay Borough. On what basis was this idea formed? Has there been public comment requesting or suggesting this new configuration? Has there been any investigation into actual distance, transportation, communication and issues with these areas? More importantly, however, these types of suggestions show that the standards continue to be moving targets, leaving the public unsure as to when areas will be held to the strictest letter of the regulations (i.e. Model Borough Boundaries) and when the regulations will be disregarded substantially.

We are unclear as to why the decision was made to exclude areas that are partially in existing boroughs? Again, Skagway, attempted to accept the obligations of a borough government, but has been removed from the list that instead focuses on areas that have not (up to this point) actively stepped forward, for a number of various reasons. According to transcriptions, some of these decisions were made based on the "familiarity" of the Anchorage Chairman, to certain locales. If the rest of the Commission is not allowed adequate time to research this list on their own, this method seems tenuous at best, producing results based not on facts, but on summations.

We are concerned as to the State's long-range plans for those communities whose names will NOT be passed on to the Legislature. Will we simply continue to have some areas organized and others unorganized as now, simply changing

the configuration? Or rather, can we instead spend the time identifying incentives and flexible, evolving methods to accomplish borough formation across the entire state; methods that work positively for communities, rather than methods that are driven by fear of what the State or neighboring areas might do?

Until now, the State Legislature has been unwilling to serve as the Assembly of the Unorganized Borough. They have failed to provide the \$30,000 appropriation for Borough Feasibility studies under AS 44.33.840. The Local Boundary Commission spent much time discussing a cover letter meant to assure the people of Alaska that this report was given to the Legislature NOT to be used as a precursor to the State's requirement of a petition from the affected areas. However, the results of this report will have very little to do with the spirit in which the report is delivered, but rather in the spirit of how the Legislature decides to accept it. If the State of Alaska can establish a means to make uniform comparisons of the property tax base of municipal governments, it can certainly provide for clean and concise language in standards to be met to form boroughs.

To summarize, we believe that concentration must be given to the big picture. What is the overall goal and how do we get there in ways that benefit the residents of this State, as well as their local and State governments. We think it is unwise to proceed with a method that can only serve to continue to be met by a percentage of the State. We would propose addressing first the incentives or lack thereof, and the barriers that discourage or prohibit an area from borough formation. We would be happy to help identify specifics as they relate to these suggestions.

Sponsor and/or Committee Name			Date
SCRA- Sen. Thomas Wagoner, Chair			4-9-03
Start/End Time	Chairing site	Juneau Room	Testimony
1:30p 3:30p	Juneau	CAP 203	Yes ___ No ___ Invitational <input checked="" type="checkbox"/>
Contact Person and	Phone Number	Other sites may add?	Testimony Limit
Mary Jackson	465-4989	<input checked="" type="checkbox"/>	

Subject of meeting and/or Bills on agenda

*See attached*

Sites - LIOs	Sites - Offnets	Phone #
Anchorage	<input checked="" type="checkbox"/>	
Barrow		
Bethel		
Cordova		
Delta Junction		
Dillingham		
Fairbanks		
Glennallen		
Homer	<input checked="" type="checkbox"/>	
Juneau		
Kenai		
Ketchikan		
Kodiak		
Kotzebue		
Matsu		
Nome		
Petersburg		
Seward		
Sitka		
Tok		
Valdez		
Wrangell		

Notes




## CITY OF PALMER

231 West Evergreen Avenue • Palmer, Alaska 99645  
PHONE (907) 745-3271  
FAX (907) 745-0930

CELEBRATING FIFTY YEARS

1951 - 2001

February 10, 2003

Senator Tom Wagoner, Chair  
Senate Community and Regional Affairs Committee

Representative Carl Morgan, Chair  
House Community and Regional Affairs Committee

RE: Report of the Local Boundary Commission

Dear Senator Wagoner and Representative Morgan:

The City understands there will be a joint meeting of the Senate and House Community and Regional Affairs Committees this Wednesday morning to hear the presentation of the Local Boundary Commission's Report to the First Session of the Twenty-Third State Legislature.

A good portion of the Report addresses the annexation of 861.44 acres to the City of Palmer. This is a legislative review annexation that is of significant importance to Palmer. I welcome an opportunity to address any questions you or fellow committee members may have regarding this annexation.

I plan to be present by teleconference for the joint committee meeting on Wednesday morning. However, if that meeting does not provide ample opportunity to address committee member's questions, or another hearing is more appropriate for that purpose, please let me know and I will make arrangements to be available.

Thank you for your consideration of this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Healy".

Thomas Healy  
City Manager


**CITY OF PALMER**

**TRANSMITTAL MEMO**

231 W. Evergreen Ave.  
Palmer, AK 99645

(907) 745-3271  
(907) 745-0930 FAX

---

TO: MARY JACKSON  
FROM: Tom Healy, City Manager   
DATE: February 10, 2003  
RE: CRA Hearing

---

Thanks for the information on the joint House and Senate CRA committee hearing on Wednesday morning.

Attached is a letter to both Senator Wagoner and Representative Morgan. I have also faxed this letter to Representative Morgan's office. I will mail the originals.

Please see that the CRA committee members receive a copy of this letter.

Thanks.



OFFICIAL BUSINESS

# Alaska State Legislature

## Senate

STATE CAPITOL, ROOM 213  
JUNEAU, ALASKA 99801-1182  
(907) 465-3701  
FAX 465-2832  
EMAIL: senate\_secretary@legis.state.ak.us

February 3, 2003

### MEMORANDUM

TO: Senator Wagoner, Chair  
Community and Regional Affairs Committee

FROM: Kirsten Waid *KW*  
Secretary of the Senate

SUBJECT: Local Boundary Commission Report

In accordance with AS 23.40.215, President Therriault has referred the following report to your committee:

Report of the Local Boundary Commission to the First Session of the Twenty-Third  
Alaska State Legislature

KW/lc  
Attachment

Report of the Local Boundary Commission  
to the First Session of the  
Twenty-Third Alaska State Legislature

JAN 30 2003

January 30, 2003

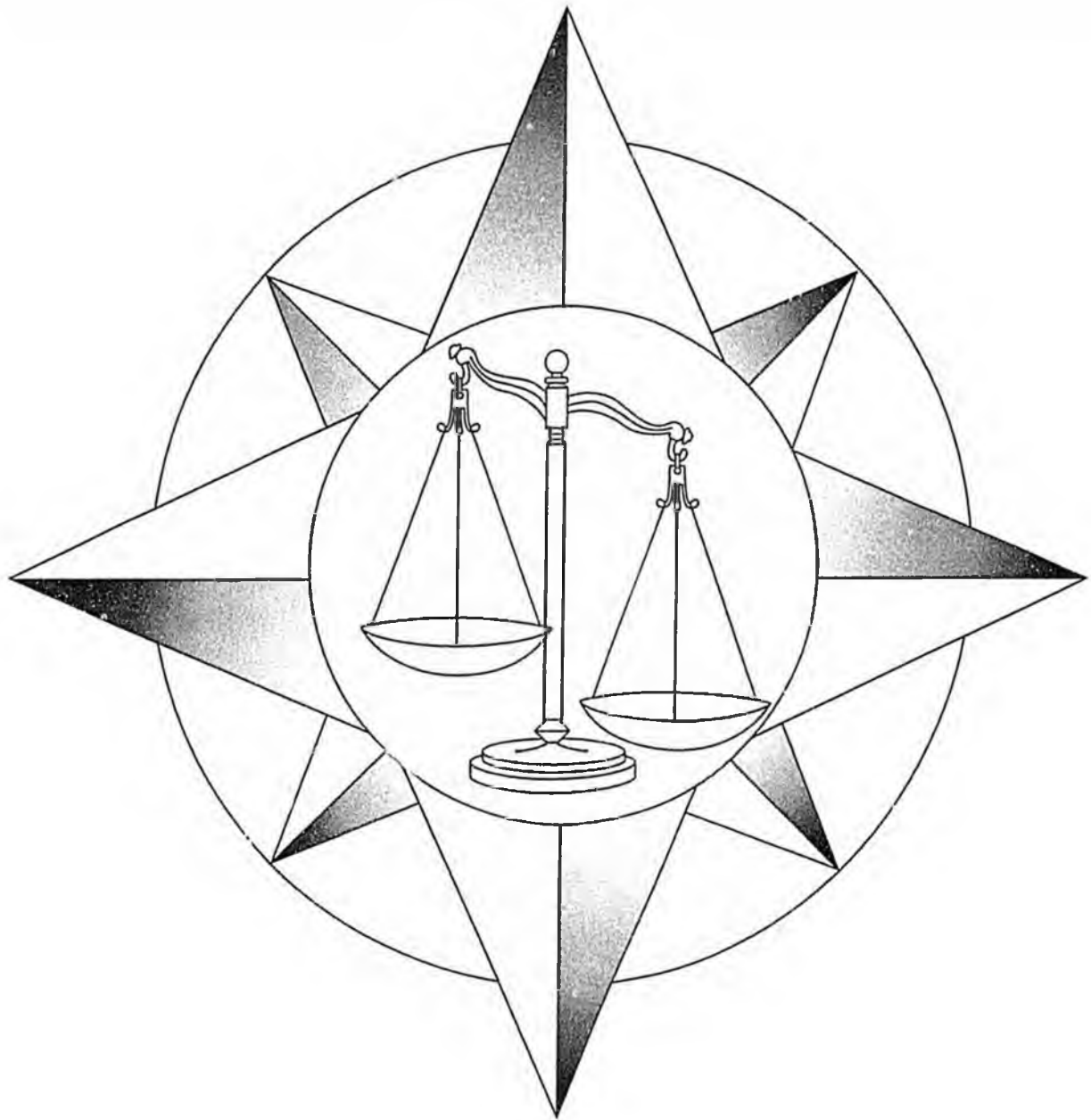
JAN 30 2003



Kevin Waring, Chair  
Myrna Gardner, First Judicial District  
Robert Harcharek, Second Judicial District  
Allan Tesche, Third Judicial District  
Ardith Lynch, Vice-Chair, Fourth Judicial District



Local Boundary Commission  
550 West Seventh Avenue, Suite 1770  
Anchorage, Alaska 99501-3510  
Phone: 907-269-4560  
Fax: 907-269-4539



The Local Boundary Commission complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560.

This report is also available on the Local Boundary Commission's website at:

<http://www.dced.state.ak.us/cbd/lbc/lbc.htm>

S B

3 8

# Alaska State Legislature

SENATOR  
GENE THERRIAULT

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax: (907) 488-4271

While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

## Senate

Senate Bill 38: "An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other safety codes adopted by state agencies and municipalities, to mechanical contractors and electrical administrators, to mechanical standards involved in certain housing loans, and to the adoption of the state's mechanical code; and providing for an effective date."

Sponsor: Senator Gene Therriault 

---

There are five primary safety codes dealing with construction in Alaska which are under the jurisdiction of two different Departments. The Fire, Building, and Mechanical Codes are under the jurisdiction of the Fire Marshall at the Department of Public Safety. The Plumbing and Electrical Codes are governed by the Department of Labor. Each department is responsible for adopting a family of codes to bring uniformity and consistency to the construction industry. However, the current delegation of authority to the respective departments has caused a set of conflicts and discrepancies, which Senate Bill 38 aims to address.

On September 15, 2001 the State Fire Marshal adopted a new family of codes to replace the Uniform Fire, Building and Mechanical Codes that were in place. These new codes are from the International Family of Codes and are created and approved by the International Code Council. Concerns have arisen from the adoption and implementation of these new codes.

The first, and probably most critical, problem is the fact that there are two distinctly different families of codes used in the state. Many mechanical contractors are Mechanical Administrators with Plumbing category endorsement. Currently Mechanical Administrators are required to use the International Code while Plumbing category endorsements are required the use of the Uniform Code. A contractor who performs both Mechanical and Plumbing services is required to train employees in two competing codes, which have limited cross reference capabilities. Additionally, current statutes state that Mechanical Administrators are required to be familiar with the requirements of the Uniform Mechanical Code. These conflicts and discrepancies in regulation and statute have created a problem that requires a legislative solution.

The proposed statutory change would do the following:

- Remove the Mechanical Code authority from the Department of Public Safety and authorize the Department of Labor to adopt and administer the Mechanical Code along with the Electrical and Plumbing codes. This is a logical step to put trade-associated codes together in a department that has knowledge and experience in administering those codes. To be a licensed Mechanical, Electrical or Plumbing commercial contractor, continuing education is required. It is logical to have the Mechanical Code administered with other codes that require continuing education on specific construction related codes rather than with the Fire and Building Codes that require no ongoing training.
- In the future, require a three-year implementation period when a switch from one set of codes to another is proposed by the state. This would allow a period of time for the industry to become familiar with new codes before having to be tested and apply these codes in a work setting. This delay would not be required when a set of codes is simply being "updated." An exemption from the three-year implementation period would be created for the initial adoption of a Mechanical Code by the department of Labor.
- Grandfather projects that are in the design or permit phase to allow usage of the code that was in place when the project was started.

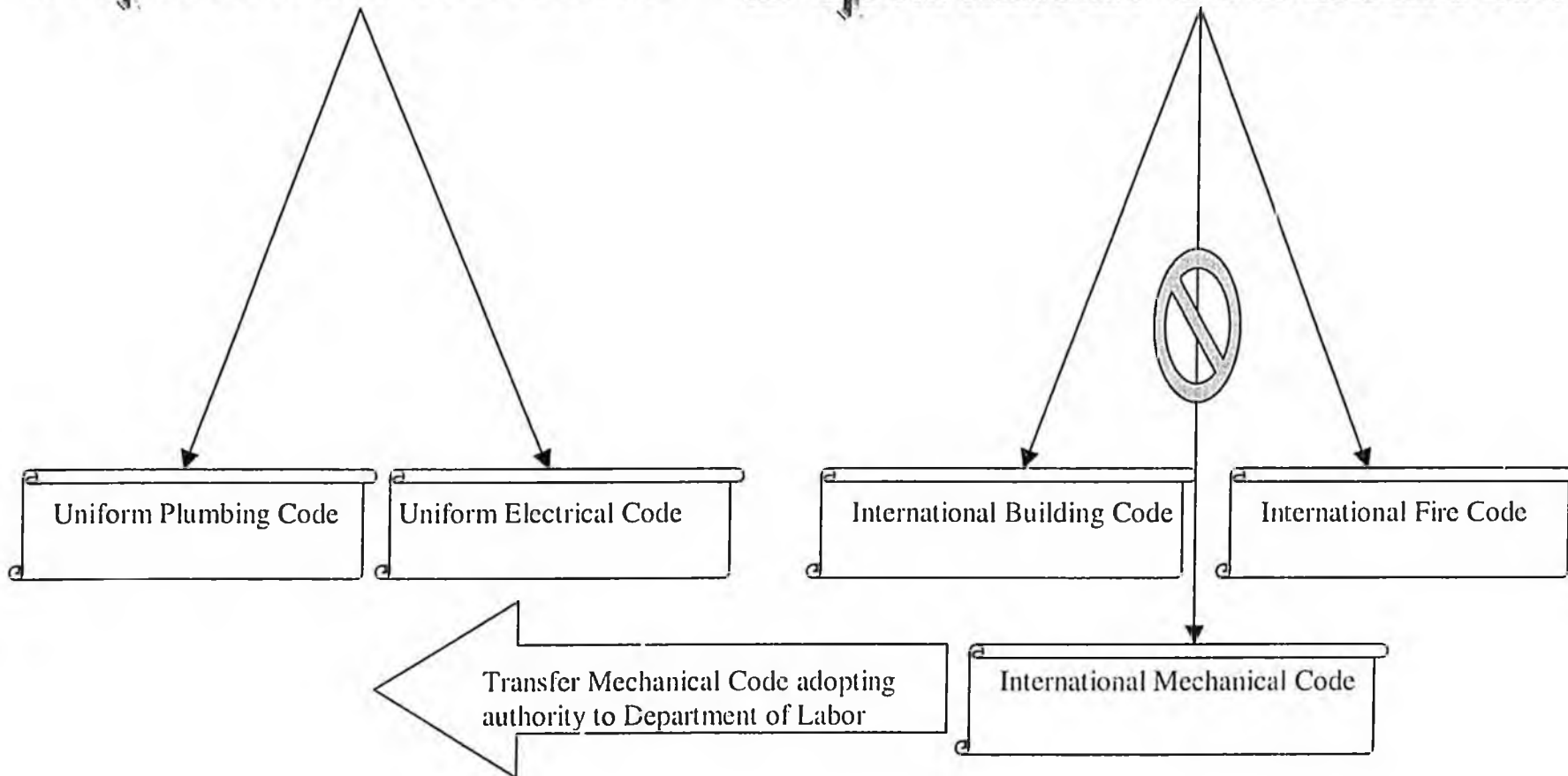
These changes are needed to rectify the current dilemma and prevent this situation from arising in the future.

\*This Sponsor Statement represents the most recent CS ( ) of SB 38 to be introduced to the Senate Community and Regional Affairs committee on Wednesday February 26<sup>th</sup>.

State Code Adopting Authority

**Department of Labor**

**Department of Public Safety**



# Construction Administrators

## Continuing Education Categories

Mechanical Administrators	Electrical Administrators
<p data-bbox="224 635 729 685"><u>Mechanical Categories</u></p> <p data-bbox="224 696 1116 939">Heating, Cooling, and Process Piping (HCPP) Mechanical Systems Temperature Control (CNTL) Residential HVAC (RHVC) Unlimited HVAC/Sheet Metal (UHVCS) Unlimited Refrigeration (UR)</p> <p data-bbox="224 1017 984 1067"><u>Plumbing Endorsement Categories</u></p> <p data-bbox="224 1078 1192 1168">Residential Plumbing and Hydronic Heating (RPHH) Unlimited Commercial and Industrial Plumbing (UCIP)</p>	<p data-bbox="1236 647 1699 697"><u>Electrical Categories</u></p> <p data-bbox="1236 708 1917 1003">Controls and Control Wiring (CNTL) Inside Communication (IC) Residential Wiring (RW) Outside Communications (OC) Unlimited Commercial Wiring (UCW) Unlimited Line Work (UL)</p>

23-LS0340V  
Bannister  
2/25/03

CS FOR SENATE BILL NO. 38( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other  
2 safety codes adopted by state agencies and municipalities, to mechanical contractors and  
3 electrical administrators, to mechanical standards and inspections involved in certain  
4 housing loans, and to the adoption of the state's mechanical code; and providing for an  
5 effective date."

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

7 \* Section 1. AS 08.18.171(7) is amended to read:

8 (7) "mechanical contractor" means a contractor whose business  
9 operations involve plumbing, pipe fitting, sheet metal, heating, air conditioning,  
10 ventilating, or sprinkler and dry chemical fire protection trades in order to install or  
11 modify mechanical piping and systems, devices, fixtures, and equipment or other  
12 mechanical materials subject to the mechanical code adopted under AS 18.60.870  
13 and the following codes as published by the International Association of Plumbing

1 and Mechanical Officials or the International Conference of Building Officials:

2 (A) Uniform Plumbing Code;

3 (B) Uniform Swimming Pool, Spa, and Hot Tub Code; and

4 (C) Uniform Solar Energy Code; [AND

5 (D) UNIFORM MECHANICAL CODE];

6 \* Sec. 2. AS 08.40.270(a) is amended to read:

7 (a) Each applicant shall be examined to determine the applicant's

8 (1) ability to understand plans, design specifications, and engineering  
9 terms commonly used in the mechanical field;

10 (2) knowledge of mechanical installations and piping;

11 (3) familiarity with the requirements of the mechanical code adopted  
12 under AS 18.60.870. and the Uniform Plumbing Code, Uniform Swimming Pool,  
13 Spa, and Hot Tub Code, and Uniform Solar Energy Code [, AND THE UNIFORM  
14 MECHANICAL CODE] currently in effect in the state;

15 (4) [REPEALED

16 (5)] personal skill and ability.

17 \* Sec. 3. AS 08.40.490(3) is amended to read:

18 (3) "mechanical administrator" means a person who is responsible for

19 (A) installing or modifying mechanical piping and systems,  
20 devices, fixtures, equipment, or other mechanical materials subject to the  
21 mechanical code adopted under AS 18.60.870. and the Uniform Plumbing  
22 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, and Uniform Solar  
23 Energy Code [, AND THE UNIFORM MECHANICAL CODE] as published  
24 by the International Association of Plumbing and Mechanical Officials and the  
25 International Conference of Building Officials; or

26 (B) certifying that an installation or modification described in  
27 (A) of this paragraph complies with the applicable codes;

28 \* Sec. 4. AS 18.56.300(e)(3) is amended to read:

29 (3) "state building code" means

30 (.1) for building standards, the standards set out in the version  
31 of the Uniform Building Code adopted by the Department of Public Safety

1 under AS 18.70.080, including the provisions of that code applicable to  
2 buildings used for residential purposes containing fewer than four dwelling  
3 units, notwithstanding the exclusion of those buildings from the Department of  
4 Public Safety's jurisdiction made by AS 18.70.080(a)(2);

5 (B) for mechanical standards, the standards set out in the  
6 mechanical code [VERSION OF THE UNIFORM MECHANICAL CODE]  
7 adopted by the Department of Labor and Workforce Development under  
8 AS 18.60.870 [DEPARTMENT OF PUBLIC SAFETY UNDER  
9 AS 18.70.080], including the provisions of that code applicable to buildings  
10 used for residential purposes containing fewer than four dwelling units [,  
11 NOTWITHSTANDING THE EXCLUSION OF THOSE BUILDINGS FROM  
12 THE DEPARTMENT OF PUBLIC SAFETY'S JURISDICTION MADE BY  
13 AS 18.70.080(a)(2)];

14 (C) for plumbing standards, the minimum plumbing code  
15 adopted for the state under AS 18.60.705; and

16 (D) for electrical standards, the minimum electrical standards  
17 prescribed by AS 18.60.580.

18 \* **Sec. 5.** AS 18.60 is amended by adding a new section to read:

19 **Article 12A. Mechanical Code.**

20 **Sec. 18.60.870. Mechanical code.** The Department of Labor and Workforce  
21 Development shall adopt by regulation a mechanical code to be the minimum  
22 mechanical code for the state.

23 \* **Sec. 6.** AS 18.60 is amended by adding a new section to read:

24 **Article 14. Miscellaneous Provisions.**

25 **Sec. 18.60.900. Delayed effective date of safety codes.** (a) Unless otherwise  
26 required by federal law and notwithstanding any other law to the contrary, a safety  
27 code adopted by a state agency or municipality does not take effect until three years  
28 after the code is adopted, unless the code specifies a later date.

29 (b) Notwithstanding (a) of this section, the three-year delay in (a) of this  
30 section does not apply to the mechanical code adopted under AS 18.60.870 or to  
31 revisions of that code.

1 (c) In this section,

2 (1) "adopt" includes revision of a safety code;

3 (2) "safety code" means rules related to the construction standards,  
4 plumbing standards, mechanical standards, electrical standards, fire safety standards,  
5 or any other procedures or requirements that relate to the safety of structures;

6 (3) "state agency" includes the Alaska Housing Finance Corporation.

7 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 TRANSITION: ADOPTION OF MECHANICAL CODE. (a) The Department of  
10 Labor and Workforce Development shall immediately proceed to adopt by regulation a  
11 mechanical code to be the minimum mechanical code for the state and shall file the  
12 regulations with the lieutenant governor under AS 44.62.060 within six months after the  
13 effective date of this section of this Act.

14 (b) The effective date of the mechanical code adopted under (a) of this section is not  
15 delayed by AS 18.60.900(a), enacted by sec. 6 of this Act.

16 \* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant  
19 governor shall certify to the revisor of statutes the effective date of the regulations adopted by  
20 the Department of Labor and Workforce Development under sec. 7 of this Act.

21 \* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 TRANSITION FOR CURRENT CONSTRUCTION PROJECTS. The mechanical  
24 code adopted under sec. 7 of this Act and certified under sec. 8 of this Act does not apply to a  
25 construction project that has received a construction permit from a municipality before the  
26 effective date of this section of this Act or that is in the process of being designed or  
27 constructed on the effective date of this section of this Act.

28 \* Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 CONTINGENT EFFECT. Sections 1 - 4 of this Act do not take effect unless the  
31 lieutenant governor certifies to the revisor of statutes under sec. 8 of this Act the effective date

1 of regulations adopted by the Department of Labor and Workforce Development under sec. 7  
2 of this Act.

3 \* Sec. 11. Sections 5 - 8 and 10 of this Act take effect immediately under AS 01.10.070(c).

4 \* Sec. 12. Sections 1 - 4 and 9 of this Act take effect the day after the revisor of statutes  
5 receives notice from the lieutenant governor under sec. 8 of this Act.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 38  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title Adoption of Safety Codes  
 Sponsor Senator Therriault  
 Requester Senate Community and Regional Affairs

Dept. Affected: DCED  
 BRU Occupational Licensing (117)  
 Component Occupational Licensing  
 Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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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 1156 - Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 2/25/03 4:53 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/25/2003  
 Agency Department of Community & Economic Development

**Q: What is ANSI?**

*A: ANSI, which stands for the American National Standards Institute, has served as coordinator of the U.S. private sector, voluntary standardization system for more than 80 years.*

*Its mission is to enhance both the global competitiveness of U.S. business and the U.S. quality of life by promoting and facilitating voluntary consensus standards and conformity assessment systems, and safeguarding their integrity. Through its members, staff, constituents, partners and advocates, ANSI responds directly to the standardization and conformity assessment interests and needs of consumers, government, companies and organizations.*

**Q: What does ANSI do?**

*A: ANSI coordinates the U.S. voluntary consensus standards system, providing a neutral forum for the development of policies on standards issues and serves as a watchdog for standards development and conformity assessment programs and processes. ANSI also accredits qualified organizations, whose standards development process meets all of ANSI's requirements. However, ANSI itself does not develop standards. In addition, ANSI represents U.S. interests in regional and international standardization activities while overseeing conformity assessment activities that promote the global acceptance of U.S. products, services, systems and personnel.*

**Q: How does ANSI conduct its business?**

*A: Overall, ANSI provides and promotes a process designed to protect the rights and interests of every participant through a set of four "cardinal principles".*

*Openness – The ANSI process is fair and open. Any materially affected and interested party shall have the ability to participate.*

*Balance – Participants should represent diverse interests and categories, and no single group should have dominance in standards development.*

*Due Process – All objections shall have an attempt made towards their resolution. Interests who believe they have been treated unfairly have a right to appeal.*

*Consensus – Agreements are reached when more than a majority, but not necessarily all, of the participants concur on a proposed solution.*

**Q: Does ANSI develop safety codes and standards?**

*A: ANSI accredits codes and standards development that operates in accordance with consensus procedures, and approves codes and standards provided they are developed via this process.*

**Q: If ANSI doesn't create standards, who does?**

*A: Presently, there are more 280 organizations accredited by ANSI to develop codes and standards, including organizations like ASTM International, Underwriters Laboratories, Inc., NFPA, ASME International, CSA America, Inc., the International Association of Plumbing and Mechanical Officials, and NSF International. Accreditation ensures adherence to ANSI's cardinal principles.*

*ANSI, in cooperation with these standards developers identifies the need for a standard, sets priorities for its completion, then assures that all impacted stakeholders have an opportunity to participate. Audits oversee the integrity of the ANSI process, regularly ensuring adherence to the ANSI procedures and safeguarding the value of the ANSI designation.*



Alaska Professional Design Council • PO Box 100515 • Anchorage AK 99501-0515

MEMBER SOCIETIES

	<p>The Alaska Professional Design Council (APDC) is opposed to the Committee Substitute for SB38 presented to the Senate Community and Regional Affairs Committee on February 26, 2003. We do not believe this bill solves the problems identified in the sponsor statement:</p>
Alaska Society of Professional Engineers	◆ We agree that having codes from two distinctly different families of codes could be a problem but this bill does not resolve that problem. It moves from three International codes and one Uniform code to two International codes and two Uniform codes. The National Electrical Code is essentially part of both families. The simplest way to get to one family of codes would be to replace the Uniform Plumbing Code with the International Plumbing Code. However, the Plumbing Code is much less important for fire and life safety and, therefore, we have not pushed for adoption of the International over the Uniform Plumbing Code.
Alaska Society of Professional Land Surveyors	◆ This bill does create problems for fire and life safety. The Building, Fire, and Mechanical codes are the three primary elements of fire safety. It is imperative that they be coordinated. This is unlikely to occur when you have codes from two families, with two different approaches to fire prevention, being adopted by two different departments.
American Congress on Surveying & Mapping Alaska Section	◆ It is correct that a person who has both a Mechanical Administrator and Plumbing Administrator's license is currently being required to get education on codes from two families. But they would be required to get 8 hours of education on each of the two codes anyway, no matter which family the codes came from. There is no increase in total hours of required continuing education because the two codes are from different families, nor would there be a reduction if they were from one family.
American Council of Engineering Companies/ Alaska	◆ On the other hand, this bill will force the code officials in the Fire Marshal's office, as well as engineers and architects, to learn two codes from one family and one code from the other family. These codes will have no cross-referencing and we will lose the existing cross-referencing between the International codes. We don't understand why this is okay for these individuals but not for Mechanical and Plumbing Administrators.
American Institute of Architects Alaska Chapter	◆ We agree that there are conflicts and discrepancies in statute and regulations that require a legislative resolution. We do not believe this bill does that, as it leaves many of the discrepancies in force.
American Society of Civil Engineers Alaska Section	
American Society of Landscape Architects Alaska Chapter	
Architecture/Engineering Marketing Association of Alaska	
Professional Engineers in Private Practice Alaska Chapter	
American Society of Interior Designers	
	<p>Thus, we recommend that a public/private work group should be formed to address the whole system of code adoption and enforcement in the State. It should have representation from the 9 different State departments or agencies that are involved in regulating codes and other elements of the construction process plus representatives of building owners, architects, engineers, contractors, subcontractors, and municipal agencies. The work group should recommend both statutory and regulatory changes to make code adoption and enforcement more uniform and less onerous on the construction community.</p> <p>We have attached a more comprehensive analysis of the issues raised by this legislation. If you have any questions regarding APDC's position or the attached document please call or email Colin Maynard, PE (907-274-2236, cmaynard@bbfm.com) or Amy Daugherty (907-463-2568, amydaugherty@gci.net).</p>



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#### MEMBER SOCIETIES

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- American Institute of Architects Alaska Chapter
- American Society of Civil Engineers Alaska Section
- American Society of Landscape Architects Alaska Chapter
- Architecture/Engineering Marketing Association of Alaska
- Professional Engineers in Private Practice Alaska Chapter
- American Society of Interior Designers
- The Alaska Professional Design Council (APDC) is opposed to the Committee Substitute for SB38 presented to the Senate Community and Regional Affairs Committee on February 26, 2003. We feel it handles a few concerns with the statutes regarding codes without resolving the systemic problems and, in some ways, makes the situation worse. We believe that a public/private task force with representation of the various different government agencies who are involved in codes and the construction process, as well as building owners, architects, engineers, contractors, subcontractors, and municipal agencies should be formed to address the whole system of code adoption and enforcement in the State. The following is a discussion of the issues related to this particular piece of legislation:
- 1) Uniform to International Code Transition: There seems to be some misunderstanding about the Uniform/International Code transition.
- ◆ The International Conference of Building Officials (ICBO) is the agency that developed the Uniform Building, Fire, and Mechanical Codes that the State has historically adopted. In some years, the Mechanical code was co-published by the International Association of Plumbing and Mechanical Officials (IAPMO). When ICBO and IAPMO were not publishing jointly, it was the ICBO version that the State adopted.
  - ◆ Starting in 1991, ICBO and the two other regional building code developing agencies joined forces under a joint body they called the International Code Council (ICC) and started work on a single national family of codes: the International Codes. These codes started out to be developed in conjunction with IAPMO and the National Fire Protection Association (NFPA) until these two organizations joined forces and went their separate way in 1999. Thus, the International codes are really a continuation of what we have always adopted – the codes developed by ICBO.
  - ◆ The design and construction community has been trying to get a single national family of codes since the 1970's. After the split between the ICC and the NFPA/IAPMO coalition, the American Institute of Architects (AIA) tried to get both sides together to discuss the issue. Based on their refusal to even discuss moving towards the goal of a single family of codes, and without an alternate explanation, the AIA concluded that NFPA's position was "solely based on economic self interest." These are the people who have "concerns" with the State Fire Marshal and the adoption process.
  - ◆ The change by the State Fire Marshal from the Uniform to International Codes has been portrayed as a capricious decision. That is not the case. The Uniform Codes we have historically adopted no longer exist and have been superceded by the International Codes. In 2000, there were no other Building or Fire codes to adopt other than the International Codes. It is imperative that the Building, Fire and Mechanical Codes work together, since they are the three fire safety codes, so it was an obvious choice to adopt the International Mechanical Code to complement the other International Codes.
  - ◆ We agree that having two distinctly different families of codes is a problem but this legislation doesn't resolve that problem, just divides it differently.

2) Moving the Mechanical Code from Public Safety to Labor: APDC is opposed to this move for several reasons:

- ◆ It is more important that the Mechanical Code be compatible with the Building and Fire Code than the Plumbing Code. They are the three codes that work together to ensure fire safety. The Plumbing Code is much less important in this regard and, therefore, we have not opposed adoption of the Uniform Plumbing Code in lieu of the International Plumbing Code. It would be next to impossible to get a cohesive code set if we adopt a mix of codes from two different code families that have different approaches to fire safety and then have two different agencies implement them. This would put fire safety at risk.
- ◆ We understand the presumed logic of allowing the people who enforce the codes to adopt them. However, the fact of the matter is that DOL contains only one component of the enforcement process: inspection. There are three elements that are involved in enforcing codes: The engineers or architects who design to them, the code officials who review the design drawings prior to construction, and the inspectors who make sure that the contractor is building in accordance to the approved plans. In DOL you have the inspectors and in DPS you have the code officials. The way it works now, all three levels are involved in the enforcement of the Mechanical Code. If you move the Mechanical Code, then you will remove one leg of that three-legged stool.
- ◆ If we lose the plan review segment and just rely on inspections, we will be costing owners money, including the State of Alaska. Instead of finding out about a problem before you have constructed it, you will have to rip out completed work and construct something else in its place. And since DOL is only inspecting outside the largest cities, the contractor can't just run to the neighborhood plumbing supply store for new parts. Thus, owners will end up losing both money and time.
- ◆ If we put all the codes (Building, Fire, Mechanical, Plumbing, Electrical, ADA, Elevator, etc) in one agency and give it plan review and inspection authority, as well as an appeal process, then we would have the ideal situation. This bill does not move us toward that ideal. It actually moves us farther away.
- ◆ If we want to put all the codes that require administrator's licenses and continuing education into one place, why not in the Occupational Licensing Division of the Department of Community and Economic Development (DCED)? They are the agency that licenses the Administrator's and approves the continuing education courses they have to take to renew their licenses, not the DOL. While being more consistent with the aims of this proposal, we don't actually think that is a good idea either.

3) Training and Continuing Education: This is one of the biggest red herring arguments that have been made.

- ◆ Every three years a code comes out that has different provisions from the one before. Some of the changes are subtle and some are drastic. It requires training to become aware of the changes but only working with the code will get you familiar and comfortable with all the new provisions. It does not matter if you are going from the ICBO Uniform to the APMO Uniform or the ICBO Uniform to ICBO International, some training will be necessary as well as on the job experience.
- ◆ For example, the seismic load calculations have changed drastically in each of the last three code cycles. And that was just a code revision, not a switch between code developers.
- ◆ The fact that there is a statutory requirement for Mechanical, Plumbing, and Electrical Administrators does not mean that they are the only people going through continuing education. Training and continuing education are a fact of life for everybody in the construction industry.

4) Delay of enforcement: We do not believe that a three-year delay is in the best interest of the State.

- ◆ Codes are published on a three-year cycle. With a three-year delay, the next code will be out before you start working with the new one.
- ◆ The design profession, in many cases, starts working with the new editions of the codes even before the State or the Municipalities have adopted them. There are code provisions that allow use of "alternative means and methods" and code officials typically accept the new code, since it is based on newer research and experience.
- ◆ For example, the Arctic Slope Regional Corporation office building in Anchorage was designed using the International codes, was built, and occupied before Anchorage got around to adopting the new Codes.

5) Transition: We agree that some transition time is necessary for projects that are well along when the new codes become effective.

- ◆ It is our understanding that the State Fire Marshal and local code officials have always provided for this. We have no problem with codifying that practice.

6) Current statutory problems: There are numerous inconsistencies in the current statutes that this bill does not address.

- ◆ The International Conference of Building Officials is cited in several locations in the statutes and regulations. As of February 1, 2003, they no longer exist as a separate entity as they and the Southern Building Code Congress International and the Building Officials And Code Administrators formally merged to become the International Code Council.
- ◆ In several locations, the Uniform Building, Fire, and Mechanical Codes are cited in statute and regulation. The first two are no longer published and the latter is only published by IAPMO.

We can provide a detailed analysis of the specific provisions of the bill, if so desired. If you have any questions regarding APDC's position or this document please call or email Colin Maynard, PE (907-274-2236, [cmaynard@bbfm.com](mailto:cmaynard@bbfm.com)) or Amy Daugherty (907-463-2568, [amydaugherty@gci.net](mailto:amydaugherty@gci.net)).