

THE UNIVERSITY OF CHICAGO
7/98

1734 SENATE & REGISTRY AFFAIRS

LEGISLATIVE REFERENCE LIBRARY

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3808
FAX (907) 465-2029
Mail Stop 3101

150 Seward Street, Suite 400
Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Judiciary 4/18/05 @ 3:28 pm

From: Vic Fischer <vicfischer@alaska.com>
To: Senator Gary Stevens' <Senator_Gary_Stevens@legis.state.ak.us>
Date: Tue, April 26, 2005 5:28 pm
Subject: *****SPAM***** CSSSHB 133(JUD) AM

Hi Gary -- I appreciate the opportunity to communicate with you.

CSSSHB 133(JUD) AM, referred to C&RA today, is a real abomination. It's another effort to subvert the constitution and undermine municipal governments. I'll be glad to elucidate.

My hope is that HB 133 will be held in committee for further study during the interim.

If hearings must be held, and I'm sure the House leadership will push for the bill, be sure to invite LBC to meet with the committee or testify in person. During House hearings on the bill, LBC testimony was overwhelmed by dozens of people ranting and raving about not wanting to pay taxes, hating government, opposing annexation, and the like.

Very best personal regards

-----Original Message-----

From: Senator Gary Stevens [mailto:Senator_Gary_Stevens@legis.state.ak.us]
Sent: Tuesday, April 26, 2005 5:08 PM
To: vicfischer@alaska.com
Subject: Re: *****SPAM***** FW: SB 128, re Local Boundary Commission

>

Thanks so much Vic. We've been investigating several issues, talking to Commissioner Blatchford plus several of the mining reps. I appreciate your giving this your attention.

Best regards,
Gary

Law Offices of

ERWIN & ERWIN, LLC

From the Desk of: Robert C. Erwin

733 W. 4th Avenue, Suite 400
Anchorage, Alaska 99501
Telephone (907) 276-3125
Facsimile (907) 276-4125
e-mail: erwinllc@alaska.net

Robert C. Erwin
Robert C. Erwin

December 21, 2001

Dan Blockhorst:

State of Alaska, Local Boundary Commission
Municipal and Regional Assistance Division
Department of Community and Economic Development
550 West 7th Ave., Suite 1790
Anchorage, AK 99501

Re: Homer Annexation
Effect of City Annexation on Borough Service Area under AS 29.35.405(e)
Our File No.: JERV-03

Dear Mr. Blockhorst:

I have reviewed the plain language of recently passed AS 29.35.450(e) requiring a vote of people when there is an attempt to alter or reduce the size of a properly designated service area for roads, fire protection, or parks and recreation services.

The opinion of the Attorney General's office which takes the position that the specific statutory language requiring a vote of the residents of the service area affected does not apply when the service area is to be annexed to the City of Homer appears questionable from a legal standpoint. The Attorney General's office does not cite any legal authority for the exception claimed, but attempts to argue that the fact a vote was never taken in the past in the area to be annexed to a city indicates that the State does not need to do so now.

This legal conclusion simply ignores the new statute and its purpose to preserve a previously created service area which was constructed in the past to provide needed services. Generally the old service area required the purchase of equipment and possible staff which was supported by taxation of the service area members. The elimination of a substantial number of the members from the service area without a vote and a decision of

Dan Blockhorst
December 21, 2001
Page 2

how future services and present debts will be provided and/or paid can provide a substantial hardship.

Each enactment of the Alaska Legislature is presumed to be constitutional and it will not be set aside unless the provisions show a substantial and plain violation of Alaska Constitutional law. See, *Suber v. Alaska State Bond Committee*, 414 P.2d 546, 557 (Alaska 1966); *Sheldon Jackson College v. State*, 599 P.2d 127, 130 (Alaska 1979).

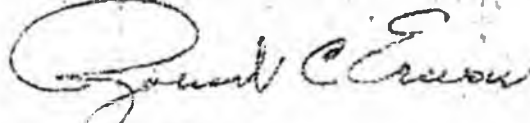
The claim that the Executive Branch of the State government is not bound by a statute passed by the Alaska Legislature is clearly incorrect. The statute is valid until declared invalid by the Court.

Such a statute is valid under the Constitutional Doctrine of separation of government power. The doctrine of separation of powers is implicit in the Alaska Constitution and the purpose of the doctrine is to preclude the exercise of arbitrary power by any one branch of government. *State v. Fairbanks North Star Borough*, 736 P.2d 1140, 1142 (Alaska 1987). This doctrine also requires the court to construe a properly passed statute to avoid constitutional infirmity where possible. *State v. Fairbanks North Star Borough*, at 1142.

Here there is no clear constitutional violation affecting a properly passed statute of the Alaska Legislature which was signed into law by the Governor. Thus, there is no legal basis to ignore its provisions which are to protect existing service areas from destruction without a vote of those people who helped create them in the first place.

Very truly yours,

ERWIN & ERWIN, LLC



Robert C. Erwin
Attorneys for Vi Jerrel, Doris Cabana and
Alaskans Opposed to Annexation

RCE:la

cc: Vi Jerrel
Doris Cabana

4-28-07

1173133

John Coghill

re. Kodiak Borough.
JC. tension. Inger swallowing
fish. annexing up to psyche

re. In. aggregate
how its regulation in JBC / that would up in
court.

JBC can still propose an
Amend. to the legislative
bill. although legs can
reject.

Could legislat. overrule of Charal H. S.

problem
fish. annexing P. S. without (popul.
area)
voted by JBC?

29.04 Reclass of cities
29.10 Munc. charter

Dir. Brockton top down /
Const. bottom up

ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719

FAX# (907)-465-3258

State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: May 3, 2005

To: Tam Cook, Legal Counsel

From: Rynnieva Moss, Legislative Aide *R. Moss*

Re: HB 133

I have attached a letter given to Senate C & RA. They want Section 5 amended believing their petition would be void is passed as is. It was my belief that Section 5 would void a petition that was voted on by aggregate vote or was submitted to the legislature without two public hearings. Is my interpretation wrong and does Section 5 have a broader effect on petitions currently being worked on?



CITY OF PETERSBURG
P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4519
FAX (907) 772-3759

May 2, 2005

To: Senate Community & Regional Affairs Committee
Cc: Delegation
Fr: City of Petersburg
RE: HB 133

John will get back to me on this!

Rep. Coghill
↓

The City of Petersburg requests that Section 5, Applicability, of HB133, be considered for amendment.

The City is presently preparing a response brief to public comments and briefs filed on its petition to annex that was filed with the Boundary Commission in December, 2004. The response brief is due to the boundary commission by July 15, 2005. The City does not want its petition void if this Act passes as considerable time, personnel resources and money have been placed into the petition application.

Consideration should be given to allow incorporations, annexations, detachments, mergers, consolidations, reclassifications or dissolutions that are currently in process to be amended to meet the requirements of AS 44.33.812 (2) or under procedures that do meet the requirements of AS 29.05.115.

Bruce R. Jones
Bruce R. Jones, City Manager

COPY

Post-It* Fax Note	7671	Date	5/2/05	# of pages	1
To	Rep Wilson	From	PSig KLB		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	907.465.3175	Fax #	907.772.3779		

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 28, 2005

The Honorable John Coghill
Majority Leader
State Capitol, Room 204
Juneau, AK 99801-1182

Dear Representative Coghill:

Thank you for your letter of April 22, regarding my position on the subject of forced formation of boroughs.

Since taking office I have been committed to improving the quality of life for Alaskans while maintaining the Alaskan lifestyle we all cherish.

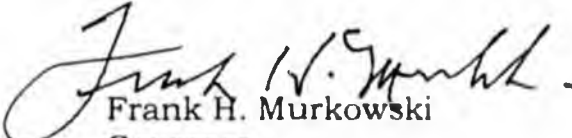
For many issues local control is the best way of ensuring new opportunities do not replace our Alaskan lifestyle or circumvent local priorities. The formation of Title 29 subdivisions, including boroughs, empowers local communities to make their own choices

I fully support local government.

The testimony of agencies supporting and advocating for the formation of Title 29 political subdivisions is not a deviation from earlier positions. I continue to favor the utilization of local control but will not force the imposition of local government. I have been, and remain consistent in this position.

I am encouraged by the numerous discussions on local government taking place in the Capitol and around Alaska. I hope to seize this enthusiasm and work with you on developing policies that promote borough formation around Alaska.

Sincerely yours,


Frank H. Murkowski
Governor

ALASKA LEGISLATURE - ONLINE TELECONFERENCE ORDER FORM

Note: All Fields Must Be Completed

Sponsor and/or Committee Name: Senate C&RA Committee

Date of Teleconference: Monday, May 2, 2005

Start Time: 1:30 p.m. End Time: 3:30 p.m.

Chairing Site: Beltz Committee Room Juneau Room: Cap. Rm. 211

- | | | | |
|------------|---------------------------------------|-----------------------|--|
| Testimony: | <input checked="" type="radio"/> Yes | Testimony Time Limit: | <input type="radio"/> 1 min |
| | <input type="radio"/> No | | <input type="radio"/> 2 min |
| | <input type="radio"/> Invitation Only | | <input type="radio"/> 3 min |
| | <input type="radio"/> N/A | | <input type="radio"/> 5 min |
| | | | <input checked="" type="radio"/> no time limit |
| | | | <input type="radio"/> other - see instructions |

Contact Person Melanie Lesh

Telephone Number 465-4989

- | | | | | |
|------------|---|----------------------|--------------------------------------|-----------------|
| LIO sites: | <input checked="" type="checkbox"/> Anchorage | Other sites may add? | <input checked="" type="radio"/> Yes | Offnet Name (s) |
| | <input type="checkbox"/> Barrow | | <input type="radio"/> No | |
| | <input type="checkbox"/> Bethel | | | |
| | <input type="checkbox"/> Cordova | | | |
| | <input type="checkbox"/> Delta Junction | | | |
| | <input type="checkbox"/> Dillingham | | | |
| | <input type="checkbox"/> Fairbanks | | | |
| | <input type="checkbox"/> Glennallen | | | |
| | <input type="checkbox"/> Homer | | | |
| | <input type="checkbox"/> Juneau | | | |
| | <input type="checkbox"/> Kenai | | | |
| | <input type="checkbox"/> Ketchikan | | | |
| | <input type="checkbox"/> Kodiak | | | |
| | <input type="checkbox"/> Kotzebue | | | |
| | <input type="checkbox"/> Matsu | | | |
| | <input type="checkbox"/> Nome | | | |
| | <input type="checkbox"/> Petersburg | | | |
| | <input type="checkbox"/> Seward | | | |
| | <input type="checkbox"/> Sitka | | | |
| | <input type="checkbox"/> Tok | | | |

- Valdez
- Wrangell
- No LIOs

Subject of meeting and/or Bills on Agenda

HB 133 MUNICIPAL BOUNDARY CHANGES/ COMMISSION

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

Contact:


Interim Address:

**3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: April 26, 2005
To: Senator Gary Stevens, Chairman, Senate CRA Committee
From: Representative John Coghill 
Re: CSSSHB 133(JUD) am

I am requesting a hearing in Senate CRA at your earliest convenience for CSSSHB 133 (JUD) am, an Act relating to the Local Boundary Commission at the manner in which it annexes, incorporates, reclassifies, dissolve, changes boundaries of municipalities.

I have attached relevant information for your members.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSSHB 133(CRA)
 (H) Publish Date: 3/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Local Boundary Commission RDU: Comm Assist & Ec Dev (405)
Regs & Powers Component: Community Advocacy
 Sponsor: Coghill, Harris, Salmon
 Requester: House Community & Regional Affairs Component No.: 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends certain powers of the Local Boundary Commission established in Title 29 and Title 44. This legislation has no fiscal impact on the operations of the division.

Prepared by: Athena Logan, Local Government Specialist Phone 269-4540
 Division: Community Advocacy Date/Time 2/23/05 2:37 PM
 Approved by: Edgar Blatchford, Commissioner Date 2/23/2005
 Agency: Commerce, Community, and Economic Development

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 9, 2005

SUBJECT: Incorporation of boroughs and LBC regulations (SSHB 133)

TO: Representative John Coghill
Majority Leader
Attn: Rynnieva Moss

FROM: Tamara Brandt Cook
Director *TBC*

You have supplied me with a copy of a document captioned: "Legal Brief Analyzing SB 128" by Bob Hicks, Vice-Chair, Local Boundary Commission. In view of the reasoning of that document you ask me to address the constitutionality of each section of SSHB 133. SB 128 differs significantly from SSHB 133.

Sec. 1. This section amends part of the procedures established for incorporation of municipalities, both cities and boroughs, initiated by local petition signed by a number of the voters of the area proposed for incorporation. (AS 29.05.060(7), (11) and (12)) Existing law permits the Local Boundary Commission to amend an incorporation petition or impose conditions on incorporation. Section 1 of SSHB 133 deletes the power of the LBC to make changes to petitions or impose conditions on incorporation. The LBC is required to reject a petition that does not meet the standards for incorporation or is not in the best interests of the state under existing law, and this is not changed in SSHB 133. If this amendment is enacted the LBC will not have the authority to change a petition in order to meet the standards of incorporation or best interests of the state or for any other reason, including constitutional factors, as the LBC has done in the past. (Petitioners for Incorporation of the City of Yakutat v. Local Boundary Commission, 900 P.2d 721 (Alaska 1995)) The LBC, confronted with a petition that it finds inadequate, will have the option of rejecting the petition and informing the petitioners of the reasons. The petitioners will be able to appeal the LBC decision or initiate a new incorporation petition, as is the case now.

Under Article X, sec. 3 boroughs are established "in a manner and according to standards provided by law." The same section directs: "Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law." Article X, sec. 7 provides: "Cities shall be incorporated in a manner prescribed by law...." The amendment proposed in SSHB 133, sec. 1 is a valid exercise of the power granted to the legislature to address by law methods for incorporation of municipalities.

Representative John Coghill

April 9, 2005

Page 2

Sec. 2. This is a proposed new section of law that requires a public hearing and voter approval before the Local Boundary Commission may submit a proposal for borough incorporation to the legislature as a proposed boundary change under art. X, sec. 12 of the state constitution. The new section, itself, may not be construed as granting authority to the LBC to propose a borough incorporation under art. X, sec. 12.

As I noted in my memorandum to you of February 12, 2005, there is a possibility that the court will conclude that the LBC has independent constitutional authority to present a proposed borough incorporation to the legislature under Art. X, sec. 12. That section permits the LBC to "consider any proposed local government boundary change" and to present proposed changes to the legislature. If the court does conclude that a borough incorporation is a type of local government boundary change that the LBC may present to the legislature under Art. X, sec. 12, it is also possible that the court will find that the legislature cannot condition that authority on voter approval of that incorporation. The court has noted that the power granted to the LBC under the state constitution is precisely to ensure state level decisions are made with respect to local boundaries rather than local decisions. (Port Valdez Co. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); City of Douglas v. City and Borough of Juneau, 484 P.2d 1040 (Alaska 1971) Additionally, the legislature has a remedy if it disagrees with a LBC proposal. Under Art. X, sec. 12 it may reject the proposal, and this rejection is not subject to veto or appeal.

The court has not directly ruled on the issue of whether the LBC may present a proposed borough incorporation to the legislature under Art. X, sec. 12, completely aside from other methods of incorporation that may be provided for by statute. There is language in cases that deal with other boundary changes that seems to lend support for the conclusion that the LBC may present a borough incorporation as a boundary change and there is language in other cases that does not support that position. On balance, I believe it is more likely than not that a court would agree that the LBC has the independent constitutional power to present a proposed borough incorporation to the legislature under Art. X, sec. 12. If that is true, sec. 2 of SSHB 133 may be invalidated.

Sec. 3. This makes the standards and procedures adopted by regulation of the LBC for various municipal changes subject to standards and procedures for those changes that have been adopted by law. This provision appears to be consistent with Art. X, sec. 12 to the extent it applies to local action changes, and, therefore, would not likely be invalidated if challenged. The last sentence of that constitutional section states (emphasis added): "The commission or board [LBC], *subject to law*, may establish procedures whereby boundaries may be adjusted by local action." The limitation in bill sec. 3 on the power of the LBC to establish procedures appears consistent with this language.

It is unlikely that this provision of statute, as amended by sec. 3, would apply to restrict procedures for proposed boundary changes the LBC submits to the legislature under the authority of Art. X, sec. 12. Note, however, that if the LBC may present a proposed borough incorporation for consideration by the legislature under the sole authority of Art.

Representative John Coghill

April 9, 2005

Page 3

X, sec. 12, the proposed borough must still satisfy standards "provided by law" as well as those specifically enumerated in Art. X, sec. 3.

Sec. 4. The applicability section contains the same issues raised in the other sections of the bill.

TBC:lmb

05-111.lmb

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 12, 2005

SUBJECT: Incorporation of boroughs (SSHB 133)

TO: Representative John Coghill
Majority Leader
Attn: Rynniva Moss

FROM: Tamara Brandt Cook
Director

TBC

Here is a draft Sponsor Substitute that includes changes to statutes dealing with the incorporation of boroughs and the role of the Local Boundary Commission (LBC) in that process. A provision included in draft bill sec. 2 prevents the LBC from presenting proposals for borough incorporation to the legislature for review under Art. X, sec. 12, unless the proposal has been approved by the voters in the area proposed for incorporation. While Art. X, sec. 12 is worded broadly and permits the LBC to consider "any proposed local government boundary change," the authority of the LBC to present a borough incorporation to the legislature under this section has not been tested in court. There is at least a chance that the court might conclude that the LBC does not have that authority. Therefore, bill draft sec. 2 includes a subsection stating that the statute, itself, does not grant that authority to the LBC.

However, if the court ultimately concludes that the LBC does have independent constitutional authority to present a proposed borough incorporation to the legislature under Art. X, sec. 12, it is also possible that the court will find that the legislature cannot condition that authority on voter approval of that incorporation. The court has noted that the power granted to the LBC under the state constitution is precisely to ensure state level decisions are made with respect to local boundaries rather than local decisions. (Port Valdez Co. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); City of Douglas v. City and Borough of Juneau, 484 P.2d 1040 (Alaska 1971)) Additionally, the legislature has a remedy if it disagrees with a LBC proposal. Under Art. X, sec. 12 it may reject the proposal, and this rejection is not subject to veto or appeal.

TBC:lmb
05-053.lmb

Enclosure

Melanie,

Top page is Mike Black's
testimony. These people
are incredible. Tam is
drafting a memo about
section 3. I also have a
memo addressing Petersburg.
Kyndrew

Testimony on CSSH 133 Senate Committee on CRA May 4, 2005

The Department is satisfied with the modifications to the original HB 133 language. In its present form the Department characterizes the legislation as providing additional options to the Local Boundary Commission for conducting local action elections in relation to municipal annexations.

As has been the past practice of the LBC, provisions described in Section 3 of AS 29.06.040(c) provide a list of methods for conducting local actions elections. HB 133 adds a provision that annexations may be required to be approved by a majority of votes on the question cast by voters residing in the annexing municipality. In other words, the Department views the methods set out in AS 29.06.040(c) as being independent of one another. We are confident in our interpretation based upon historical interpretation of Section 3 provisions in regards to past actions by the LBC.

Section 5 of the bill was in our estimation incorrectly characterized as annulling petitions for annexation using the aggregate voter method. As noted by the Local Boundary Commission in testimony before the House Community and Regional Affairs Committee, the House State Affairs Committee, and this Committee, one petition for annexation by the aggregate voter method is currently pending before the Commission. Specifically, the City of Petersburg has one such proposal pending before the LBC. Under our interpretation of the effect of this bill, we do not think that the annexation petition process will be affected.

Therefore, the Department has no objection to this bill based upon our interpretation of its effect. Thank you for this opportunity to comment on HB 133.

Rynnieva Moss

From: Dan Bockhorst [dan_bockhorst@commerce.state.ak.us]
Sent: Friday, January 21, 2005 4:31 PM
To: Rynnieva Moss
Subject: Re: 3 AAC 110.210 (4) Local Action

Ms. Moss: Your reading of 3 AAC 110.210(4) is correct. The method set out in 3 AAC 110.210(4) allows annexation upon approval by (1) the Local Boundary Commission and (2) a majority vote of the combined voters both in the borough and in the area proposed for annexation.

You questioned whether such provisions are inconsistent with AS 29.06.040(c)(1). I do not believe that they are.

First, AS 44.33.812(a)(2) provides that, "The Local Boundary Commission shall adopt regulations providing standards and procedures for . . . annexation . . ."

Moreover, AS 29.06.040(c) requires that the LBC "establish procedures for annexation . . . by local action" that are "in addition to the regulations adopted under AS 44.33.812."

In full, AS 29.06.040(c) states:

In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include [but are not limited to] a provision that

- (1) a proposed annexation and detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;
- (2) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and
- (3) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

X Additionally, Article X, Section 12 of the Alaska Constitution provides, in part, that "The [Local Boundary Commission], subject to law, may establish procedures whereby boundaries may be adjusted by local action."

Thus, the LBC has constitutional authority and a statutory duty to establish procedures for local action annexation in addition to those procedures set out in AS 29.06.040(c). To fulfill that duty, the LBC adopted 3 AAC 110.210(4) and other measures.

In the sense that a borough annexation involves the perfecting of boundaries of an existing borough, a proposed annexation under 3 AAC 110.210(4) is analogous to the local action process for incorporation of a new borough. Incorporation of a borough by local action is subject to

- (1) approval by the Local Boundary Commission and (2) a majority vote of all voters within the boundaries of the proposed borough. A borough incorporation proposal is not subject to a majority vote in each of several different portions of the proposed borough. Similarly, a borough annexation under 3 AAC 110.210(4) is subject to a majority vote within the boundaries of the proposed expanded borough. It is not subject to a majority vote in the area proposed for annexation.

If you wish to discuss this matter or if you have further question, please contact me.

Cordially,

Dan Bockhorst
269-4559

*AS 01.10.040(b) states that, "When the words 'includes' or 'including' are used in a law, they shall be construed as though followed by the phrase 'but not

limited to.' * AS 01.10.050(b) provides that "Words in the singular number include the plural, and words in the plural number include the singular."

Kynniewa Moss wrote:

- > Am I reading 3 AAC 110.210.Local action subsection (4) wrong. It says
- > a territory can be annexed upon "approval by a majority of the
- > aggregate voters who vote on the question within the area proposed for
- > annexation and the annexing borough."
- > That seems to read a majority vote of the combined voters both in the
- > borough and in the territory proposed for annexation.
- > Such a vote would be inconsistent with AS 29.06.040(c)(1) which states
- > " a proposed annexation and detachment must be approved by a majority
- > of votes on the question cast by voters residing in the area proposed
- > to be annexed or detached."
- > It would certainly diminish the vote of an area with 700 or 800 voters
- > when the existing borough would have tens of thousands of voters.
- > Please clarify.

SKAGWAY CITY SCHOOL

MAR 29 2005

P.O. Box 497

• Skagway, Alaska 99840

• (907) 233-2960

March 24, 2005

The Honorable Representative John Coghill
HOUSE OF REPRESENTATIVES
State Capitol, Juneau, Alaska 99801-1182

Re: Local Boundary Commission
Powers and Regulations
House Bill 133

My dear Representative John Coghill,

I provided testimony in support of SB128 to the Community & Regional Affairs Committee of the Alaska State Senate on Monday, March 21, 2005 while I was in Juneau attending the Legislative Fly-In for the Alaska Association of School Administrators. I am the Superintendent of the Skagway City School District. I strongly support the concept of local autonomy for the cities and towns in Alaska who are not incorporated into boroughs. I am very grateful that you have authored House Bill 133 in an effort to override Local Boundary Commission regulations concerning annexations that require an aggregate vote rather than positive votes in each area effected by the proposed annexation.

I really appreciate your efforts on behalf of small cities and towns throughout Alaska. It is imperative that local autonomy and the principles of self-rule be protected in state statute. I applaud your attempts to preserve this important aspect of rural life. Many people who choose to live in our small communities are advocates of keeping government at a local level as much as possible. Your bill will further secure those needs of letting people be in charge of their own lives and destinies. The provisions specified in your bill help to place constraints on the powers of the Local Boundary Commission regarding the process of incorporation. By mandating that local communities have, at least, two public meetings with a majority of voters in a subsequent election agreeing to having their community annexed into a larger borough you further solidify the power of the people for local control of their city.

I have shared through a letter to the City of Skagway City Council the broad benefits your bill will guarantee for the citizens of our cities. I actively seek to promulgate our

mutual agenda whenever the opportunity becomes available. I want you to know that if there is anything that I could do to help you get your bill to become a law please contact me at the aforementioned telephone number or through my e-mail address of mdickens@skagwayschool.org.


Besides protecting our communities through your bill I know that the City of Skagway has petitioned the Local Boundary Commission and the Alaska State Legislature to be made a borough. Our city wants to take an even more active role in carrying the financial burden for the citizens in Alaska.

I wholeheartedly believe that our Skagway City Council objective of making Skagway a borough is imperative in obtaining financial independence and local autonomy for the future needs of Skagway's citizens especially her children. We can either become a borough in the State of Alaska or, as an alternative plan we can find ways to enact through legislation law that would make it impossible for other boroughs or communities from incorporating us into their borough without our voter's approval. Your bill would provide our residents with this later alternative and mandated guarantee.

I personally believe that only this type of a legal deterrent, which impedes or actually stops an unwilling city participant from being forced into an existing borough, will ultimately protect the fiscal integrity, quality of life, and the future interests of our wonderful communities in Alaska. Congratulations on having your bill sent to the Senate State Affairs Committee for their review!

Thank you so much for taking your time to read this letter. Please know that if there is any opportunity in which I could be of help in your pursuit of getting HB133 in state statute you need only to ask. I know that working together we will be helping to sustain and foster a safe, secure, and financially sound future for the citizens of our communities in our great state of Alaska!

Warmest Regards,



Dr. Michael Dickens
Superintendent

Cc: President Chris Ellis and the Skagway City School District School Board
Mayor Tim Bourcy and the Skagway City Council members

Attn: Senator Coghill Fax to: 907-465-32568 FYI

Written testimony to the Senate Judiciary Committee regarding SB 128

By Glen Marunde

April 8, 2005

To the Chairman and members of the Senate Judiciary Committee.

My name is Glen Marunde and I am a 43 year resident of Tok. My wife, Dorothy, and I have raised five children in Alaska. I make my living as an electrical and mechanical contractor. I also teach construction trade classes for the University of Alaska.

My testimony pertains to the story of what happened when the Local Boundary Commission forced the Lake Louise Community of just 37 residents to be annexed to the Matsu Borough without a vote of the residents of the annexed area and without the vote of a single elected person.

This story, more than anything else I know of, supports the aims and goals of SB28. I urge you to vote for SB 128.

The facts and figures used in this testimony are taken from The Report of the Local Boundary Commission to the second session of the Nineteenth Alaska Legislature.

Once upon a time there were 37 Alaska citizens living peacefully and happily in the beautiful area around Lake Louise. Lake Louise is located just off the Glenn Highway about 34 miles West of Glennallen and about 110 miles East of downtown Anchorage.

They governed themselves with a local Community Umbrella Corporation, a quasi-government plan overseen by the DCED for areas not ready to incorporate as a second class city. They had total local control of their own lives and destinies.

The Matsu Borough leaders recognized that some day this area could become a major recreational area with a tax base and they reached their talons over a mountain range and thru the notch at the top of Gunsight Mountain and snatched up Lake Louise. The LBC eagerly approved the Matsu petition and forced the Lake Louise residents to be annexed to the Matsu Borough by use of the legislative review method. That's the method whereby the LBC makes a recommendation to the Legislature to annex and it becomes law, if not voted down by a majority in both houses within 45 days. The

annexation can become law without a vote of the Legislature and without a vote of the Lake Louise citizens. The annexation becomes law without the vote of any elected person.

On March 7, 1996 the 37 residents of Lake Louise fought back and filed a petition to detach with the Department of Community and Regional Affairs. The LBC was forced to investigate. Their own investigation showed that Lake Louise had very much more in common with the Glennallen Area than it did with Matsu. The LBC voted to recommend detachment.

On October 3, DCRA issues its preliminary report which supported the detachment of approx 252 square miles.

But the DCRA attached stipulations to the detachment. They recommended that the Lake Louise residents pay for a proportional share of the Matsu bonded indebtedness. Next they recommended that Lake Louise pay required local contributions for education and that they assume responsibility for a 23 acre sewage management site currently operated by the Matsu Borough. The dollar amount of these stipulations came to \$160,000.00.

Let's stop and recap! The 37 residents of Lake Louise were forced into annexation with the Matsu Borough without a local vote and against their will. They fought back by filing a petition to detach. Upon review both the LBC and the DCRA changed their opinion and recommended detachment but they added stipulation that in order to detach the citizens of Lake Louise had to buy their way out to the tune of \$160,000.00---for services they never wanted or needed in the first place. Unbelievable!

But wait - there's one more stipulation. At a December 8, 1995 meeting the LBC stipulated that the detachment will not take effect until the detached territory becomes part of another organized borough within two years of the date of tacit legislative approval. There were no other organized boroughs in the area.

Let's sum up, again.

The DCRA and the LBC imposed a borough annexation of Lake Louise against their will. Lake Louise fights back and files a petition to detach. After a thorough investigation which shows that Lake Louise has much more in common with Glennallen than with the Matsu Borough, they reverse themselves and recommend detachment.

Next the LBC and the DCRA add stipulations to the detachment that Lake Louise must pay \$160,000.00 to buy their way out, and that they must join another borough, first. There was no other borough within 100 miles and still isn't as of today's date!. Both the LBC and the DCRA are dead wrong but they win anyway --- and the 37 citizens of Lake Louise lose and no elected person has voted on anything.!

The saga continues.

The citizens of Lake Louise could not afford to buy their way out and they did not want to join another borough. They fought back again by filing a petition to reconsider and ask to detach and form a 2nd class city as the lesser of two evils. At least with a 2nd class city they would retain local control compared to seeing control pass to a borough assembly 100 miles away.

The LBC approves the formation of a 2nd class city but stipulates approx the same conditions as they did for detachment and then, believe it or not, adds another stipulation

Here it is (If you love our Democracy, and believe in the rights of individuals, brace yourself.)

"It is further stipulated in the event a city government is formed, the incorporation is conditioned upon the passage of a proposition authorizing the city to levy a property tax at a rate that will generate revenues sufficient rate to pay the \$160,000.00 noted above to the Matanuska-Susitna Borough within two years of incorporation and to carry out the duties listed above and other reasonable anticipated functions of the city."

And here is the final outrageous stipulation, "that the Local Boundary Commission shall be the arbitrator of any dispute between the petitioners and the Matanuska-Susitna Borough concerning payments required by this action or the implementation of any other aspect of the detachment and the conditions stipulate above."

Talk about the fox guarding the chicken coop!" The LBC was a prime party and should not be the arbitrator. That is the job for a 3rd party arbitrator.

The Lake Louise residents did not accept the stipulations and today they are still a part of the Matsu Borough.

Please note that Darrell Hargraves, the current Chairman of the LBC was also the Chairman during the Lake Louise fiasco.

I believe that the story of how the LBC forced the Community of Lake Louise, against their will, without a vote, into the wrong borough and forced it to remain there clearly points out the need to pass SB 128.

If you wish to read the LBC report regarding the annexation of Lake Louise into the Matsu Borough, call me at 907-883-4601 or email me at Marunde@aptalaska.net and I will send it to you.



Willow Seay

From: larrykulzer [kulzer@acsalaska.net]
Sent: Friday, February 25, 2005 8:56 AM
To: Willow Seay
Subject: Re: Representative Coghill's District 11 Newsletter

This email is a reply to the bill that mr coghill has purposed house bill # 133. Is a very good idea. It is my opinion that the borough mayor and some of borough assembly do not care about the peoples opinion.

Just spend money on things not needed. We do not need to put more money into the schools. As a borough tax payer I am so tired of Mr. Whitaker he is the worst mayor we have had. The only way to stop some of his stupid ideas is to put it to the vote of the people. Thank you, Bonnie Kulzer

----- Original Message -----

From: Willow Seay
To: lhscwas+newsletter4@legis.state.ak.us
Sent: Tuesday, February 22, 2005 11:42 AM
Subject: Representative Coghill's District 11 Newsletter

<<Newsletter 2.pdf>>

Dear Constituents,

Attached you will find Representative Coghill's second newsletter. If you no longer wish to receive this newsletter please reply with UNSUBSCRIBE in the subject line. We will promptly remove your address from our distribution list.

For Interior residents interested in sharing comments with their representatives - The Chair of the Interior Delegation, Representative Mike Kelly, has reinstated the monthly constituent meetings.

The next meeting is scheduled for **TONIGHT** and will start promptly at **6:00 PM**. The meeting is teleconferenced through the Fairbanks Legislative Information Office located on the 1st floor of the Denali State Bank Building. The Denali State Bank Building is located at 119 S. Cushman St. across from the Fairbanks Daily News Miner. Please feel free to attend the meeting and have your voice heard.

Willow Seay
Legislative Aide
Rep. John Coghill

To Whom It May Concern:

We are in support of House Bill 133 which gives the people of the State of Alaska the right to determine the level and degree of local government.

The right to vote is fundamental. It is the very foundation of Democracy. Is it not the reason we have troops in Iraq? We believe both the rural areas and urban areas should determine the level of government they wish.

We urge you to support this bill in its entirety.

Thank You,

Jeff Yarman
Beth Cender
1624 Jones Rd.
Fairbanks, Alaska, 99709

March 19, 2005

Box 192
Tok, Alaska 99780

My fax: 907-883-4601

Senator Al Kookesh
State Capitol, Juneau, Ak 99801-1182

To: Fax 907-465-2827
Senate C R & A Committee

Dear Senator Kookesh

My name is Glen Marunde and I am a 45 year resident of the Tok Area. My wife, Dorothy and I have raised 5 children here in Alaska. I make my living as an electrical and mechanical contractor. I also teach construction classes for the U of A. My work has taken me all over Alaska from Juneau, to Barrow, to Border and to Adak..

I am writing you in support of SB128. "An Act relating to consideration by the Local Boundary Commission of a requested borough incorporation." I have studied our State Constitution and I believe that the framers never intended for the LBC, the Legislature, and/or the courts to initiate the establishment of a new borough or an annexation to an existing borough. I believe I am a reasonable man making a reasonable interpretation of the Constitution. I believe the Borough Act of 1961, as amended, is the current law of the land and is today's only valid authority for establishing or annexing boroughs.

The Mandatory Borough Act of 1963 was a one-time-only act and does not establish any precedence for mandating boroughs.

In November of 2000, the DCED published a booklet entitled "Background on Boroughs in Alaska". The booklet was written by Mr. Dan Bockhorst, a DCED local government specialist who acts as a facilitator for the LBC. On page 14, under the heading of Borough

Incorporation Procedures, Mr. Bockhorst clearly states, " Current law expressly provides that borough incorporation proposals may only be initiated by voters." The process states that incorporation proposals are initiated by at least 15% of those who voted in the last State General Election. Mr. Bockhorst then goes on to present a rather lengthy process of hearings, including the presentation of briefs and comment periods, and finally the last step, "Submission of a proposition of the vote of the proposed borough which requires approval from a majority of the area wide vote."

The Borough Act of 1961, as amended, and passed by the 2nd Legislature is the current law of Alaska regarding the formation of borough government. This law dictates that borough proposals may only be initiated by 15% of the those who voted in the last State General election, and that submission of a proposition of the vote of the proposed borough which requires approval from a majority of the area wide vote.

Please vote to pass SB 128 out of your committee. It is needed to clarify the intent of the current law pertaining to borough formation.

Sincerely,

Glen Marunde

PS I am attaching 3 articles I have written which have appeared in the Tok and Delta newspapers.

A VOICE FOR THE BUSH

By Glen Marunde, Tok kResident

"It's Government for rabbits"

Testimony for HB 133

Two of Alaska's most respected elder statesmen, both of whom played important roles in the framing of Alaska's State Constitution, are on record as opposing the formation of large boroughs in the Unorganized Borough.

Elder statesman, Judge Thomas Stewart, now living in Juneau, was the chief organizer of the original constitutional convention. Judge Stewart served as the secretary of the convention.

On February 13 and 14, 1996 The Local Boundary Commission hosted a seminar entitled "A Review of the Local Government Article of Alaska's Constitution Forty Years after it was Written" The seminar took place in Juneau. Judge Stewart was invited to participate as an expert on the Local Government Article X of the Alaska Constitution.

Here are Judge Stewart's comments quoted from a transcription of the meeting. Near the end of the meeting, Judge Stewart said, "My strong thought is that the Legislature, the Governor, and the Department and the Commission have failed to give weight to that word (local). And too many of the boroughs that have been formed are regional in nature, and in my judgement never should have been. If there are taxable properties out there like Prudhoe Bay, they should have been in an unorganized borough administered by the State. Barrow has no business managing Prudhoe Bay ----that they never used. It's regional in my judgement. And you should confine the boundaries down to the land surface that the local people have traditionally used that have those characteristics of population, geography, economy, transportation that are local. The word "local" has not been adequately recognized."

Bob Hicks "You say the word "local" for boroughs should be very, very small equivalent of a small county, shouldn't be that expansive?"

Judge Stewart "Absolutely!"

Alaskan elder statesman, Lt. Gov Jack Cognill, in a recent interview with

"A Voice for the Bush" commented on SCR-12, the bill that could force a layer of unwanted and unneeded borough government on citizens of the Unorganized Borough, without the vote of any person answerable to an electorate.

Lt. Gov Coghill, who was a framer for our constitution said, " We wanted to be sure that the power to form government was in the people, not the Legislature. It is unconstitutional for the Legislature or the Local Boundary Commission to impose a government on anyone. Just read Article 1, Section 2 of our State Constitution. It's all right there!"

Here's what Article 1, section 2 says, "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole."

Coghill stressed that framers intended no timetable what-so-ever for the establishment of local governments. He said that the framers thought there would be areas of unorganized borough forever. That is why the framers gave the Legislature the power to act as an assembly for the Unorganized Borough. They did not want an unnecessary layer of regional governments on top of local governments.

Coghill also explained that when the framers gave authority to the Local Boundary Commission to study boundary changes and make recommendations to the Legislature that could become law without a vote of the Legislature they intended this third party authority to be used only to resolve boundary disputes involving annexations, detachments, and other disputes between existing local governments. The framers never intended for the Local Boundary Commission to use this authority to establish or force new local governments on the residents of the unorganized borough.

Like Judge Thomas Stewart, Coghill thinks some of the existing boroughs are far too large and are really regional, not local, in nature.

Lt. Gov Coghill summed up his feeling about large, unnecessary boroughs in just four words when he said, "It's government for rabbits."

Glen Marvande
Box 192 Tok, Alaska 99750
March 2 - 2009

HB

184

STATE OF ALASKA

**REPRESENTATIVE
MIKE CHENAULT**

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075



HOUSE OF REPRESENTATIVES

Official business

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

Sponsor Statement

HB 184 "An act relating to firearms"

This bill was introduced to ensure that citizens be able to look to one law as the single final authority regarding firearm regulation. This bill will guarantee consistency in firearm law within the State of Alaska.

STATE OF ALASKA

**REPRESENTATIVE
MIKE CHENAULT**

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075



HOUSE OF REPRESENTATIVES

Official Business

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

04/14/05

To: Senator Gary Stevens, Chair
Senator Bert Stedman, Member
Senator Tom Wagoner, Member
Senator Johnny Ellis, Member
Senator Albert Kookesh, Member

From: Representative Mike Chenault 

Subject: Request for Senate Community & Regional Affairs
Committee Hearing

This office respectfully requests a hearing of the Senate Community & Regional Affairs Committee on HB 184 "An act relating to firearms" at the committee's earliest convince.

If you have further questions on the scheduling of this committee hearing, please contact Sue Wright in Room 505 (907) 465-3779.

Thank you for your time and cooperation.



Alaska Association of Chiefs of Police

Senator Gary Stevens
Alaska Legislature
State Capitol, Room 103
Juneau, Alaska 99801-1182

Dear Senator Stevens

The Alaska Association of Chiefs of Police (AACOP) strongly opposes HB 184. This bill would bar cities and boroughs from restricting firearms beyond the level set by the state. In the opinion of AACOP, this is a prescription for tragedy.

Currently, many cities have policies/ordinances banning the possession of firearms in any facility where liquor is served. Under HB 184, cities would no longer be able to enforce such ordinances. We are all aware persons imbibing in alcohol are not known for good judgment. Although they may be in compliance with state law by entering the establishment with the gun unloaded, it isn't difficult to imagine they might have ammunition on their person. It is then a very easy step, in the heat of a moment, to load the gun and cause the injury or death of another.

Another area where concern has been expressed is local policies/ordinances prohibiting firearms in city government buildings. In Seward, for example, our city building houses the police department, the court, city council chambers, city manager's office, and other related city offices. As you know, there are times when emotions run high in these respective areas and tempers can get out of hand. Under HB 184, we will not be allowed to enforce a policy prohibiting firearms in this building. This increases the danger to many officials, as well as to the general public.

AACOP does support the constitutional right of citizens to bear arms. Law, however, has accepted common sense restraints such as denial of firearms to convicted felons and the mentally ill, and restricted possession and use of automatic weapons and explosives. It follows, therefore, that common sense restraints against guns in public buildings where emotions can overwhelm otherwise well-adjusted people, in businesses serving alcohol (which has the effect of reducing good judgment), and in or on school grounds should be enacted to assist communities in the pursuit of public safety. If state laws are not available to law enforcement authorities in these situations, then the ability of communities to enact such restraints must be preserved.

Contrary to the argument put forth by Rep. Chenault and Rep. Stoltze, firearms control is not a "one size fits all" issue. Every community and city in the State of Alaska is different. They have different needs and problems and, therefore, need different solutions. Those solutions are best provided by local ordinances enacted by local people duly elected to perform that duty, not by the state legislature. Additionally local communities should be in control of their issues and provide what ever polices are necessary to keep their community safe as long as it is legal to do so.

Rep. Chenault seems to feel the people of the state are not capable of recognizing that different cities should be able to exercise discretion in having and enforcing different laws in relation to firearm possession and use. If one followed that belief to its logical conclusion, we would have to allow the state legislature to enact one law in all matters so there would be "a single authority". That thought is as ridiculous as HB 184, and I want to emphasize again that communities have the right to have local control.

I sincerely ask you to speak out in opposition to this bill and urge your fellow senators to vote against it.

Sincerely,



Thomas Lee Clemons
President, Alaska Association of Chiefs of Police
Chief of Police, Seward AK

TO: Senate Community & Regional Affairs (CRA) Committee
DATE: April 22, 2005
TIME: 1:30 PM
BILL: HB 184 Municipal Firearms Ordinances...

T/c

Written testimony by: DENNY KAY WEATHERS
Residence Address: Lot 6, Deep Bay, Hawkins Island
In Prince William Sound, District 5
Mailing Address: Third Judicial District
c/o P.O. Box 1791
Cordova, Alaska
Rural Radio Phone: 907-424-3745
Email Address: northerngirl@ctcak.net

Mr. Chair, Gary Stevens;

I am faxing in my testimony just in case I am unable to testify by telephone.

I strongly support HB 184 as it supports the second amendment rights of We the People.

In Cordova, Alaska a rural community, the City Council has been making ordinances against gun owners that go directly against both the State and US constitutions.

A few years back one such ordinance in Cordova was made that said a person could not have bullets in their gun while traveling through the city... but a city councilman told us it would not be enforced. About a month or two after it was passed my youngest son then in his twenties was going from his fishing boat to a friends car with his rifle slung over his shoulder and he was accosted by a city police officer wanting to take his bullets, possible his gun and fine him. These kinds of laws are unconstitutional and need to be stopped and HB 184 is a good start. Please pass HB 184. Thank you for your time.

Denny Kay Weathers

4-22-05
Sen. Res. 330

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS0491VY
Bullock
4/20/05

CS FOR SENATE BILL NO. 102(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS GARY STEVENS, Olson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an extension for review and approval of revisions to the Alaska**
2 **coastal management program; providing for an effective date by amending the effective**
3 **date of sec. 45, ch. 24, SLA 2003; and providing for an effective date."**

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

5 *** Section 1. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA**
6 **2003, is amended to read:**

7 **(c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT],**
8 **the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003**
9 **[OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in**
10 **AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district**
11 **coastal management program, including its enforceable policies, approved by the**
12 **former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and**
13 **AS 46.40 until the revised district coastal management plan is approved by [JULY**
14 **1, 2006, UNLESS] the Department of Natural Resources [DISAPPROVES OR**

1 MODIFIES ALL OR PART OF THE PROGRAM BEFORE JULY 1, 2006].

2 * Sec. 2. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA 2003,
3 is amended to read:

4 (a) Within six months [ONE YEAR] after review and approval of the
5 state's revised coastal management program by the National Oceanic and
6 Atmospheric Administration, Office of Ocean and Coastal Resource
7 Management, United States Department of Commerce, under 16 U.S.C. 1455 and
8 1457 (Coastal Zone Management Act of 1972) [THE EFFECTIVE DATE OF
9 REGULATIONS ADOPTED BY THE DEPARTMENT OF NATURAL
10 RESOURCES IMPLEMENTING CHANGES TO AS 46.40.010 - 46.40.090,
11 ENACTED BY SECS. 8 - 15 AND 44 OF THIS ACT, OR BY JULY 1, 2005,
12 WHICHEVER IS LATER], coastal resource districts shall review their existing
13 district coastal management program and submit to the Department of Natural
14 Resources for review and approval a revised district coastal management plan meeting
15 the requirements of AS 46.40 [, AS AMENDED BY THIS ACT,] and the
16 implementing regulations.

17 * Sec. 3. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003, is
18 repealed and reenacted to read:

19 Sec. 49. Section 45, ch. 24, SLA 2003, takes effect on the date that the
20 commissioner of natural resources certifies to the lieutenant governor that the National
21 Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource
22 Management, United States Department of Commerce, under 16 U.S.C. 1455(e), has
23 approved the revised coastal management program.

24 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB184
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Municipal Firearm Ordinance RDU Comm Assist & Ec Dev (405)
 Component Community Advocacy

Sponsor Chenault, Stoltze, Neuman, Dahlstrom,
Harris
 Requester House Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation requires that municipalities may not enact or enforce an ordinance regulating the possession, sale, transfer, use, or transportation of firearms that is inconsistent with state law.

It would not create a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director Phone 269-4578
 Division: Community Advocacy Date/Time 3/21/05 2:23 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/21/2005
 Agency: Commerce, Community and Economic Development

HB

217

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
(907) 465-4859
Fax (907) 465-3799



Interim: (June-Dec)
716 West 4th Avenue, Suite 300
Anchorage, AK 99501-2133
(907) 269-0129
Fax (907) 269-0128

John Harris
Speaker of the House

Sponsor Statement

HB 217 - Determination of full and true value of taxable municipal property for the purposes of calculating funding for education and certain other programs

Under current law, organized cities that are school districts and boroughs are required to make financial contributions in support of their schools. Those contributions are based on the value of the taxable property within the borough boundaries. These municipalities are required to contribute the equivalent of a 4-mill tax on the full and true value of all taxable property within their municipal boundaries.

The full and true value of a municipality includes values of all taxable real and personal property, which includes properties such as, oil and gas properties, residential and commercial property, farms and recreational property.

HB 217 does not force municipalities into levying a property tax to generate local revenue for school contribution by including the value of oil and gas properties in the full value determination. It excludes the value for oil and gas unless the municipality chooses to levy a property tax. This accomplishes two things. First, it allows the municipality to choose the method of raising revenues. Without the high value of oil and gas, a municipality may choose other methods of raising revenues, such as a sales tax. Second, it allows the state to keep the 20 mills levied against all oil and gas property. If a municipality is forced to levy a property tax, the tax levied against the oil and gas property is deducted from the revenues the State of Alaska should receive. This is a win-win situation for both the municipalities and the state.

Comments on HB 217
Full and True Value of Taxable Municipal Property
Steve Van Sant, State Assessor
Alaska Department of Commerce

This legislation affects the full value determination with respect to two different scenarios. First, it clarifies that if an area is detached from a municipality, the full and true value of the municipality, from which the area detached, will exclude the value that existed for the two years preceding the detachment. This is necessary due to existing statutes which, require local contribution for schools based upon the value determined "as of January 1 of the second preceding fiscal year." In other words, the full value determined this year (2005) would not be used for a municipality's local education requirement for two more years (2007). Therefore, when an area is detached, it should not be this year's value that is used, but the value as of two years ago. This portion of the legislation has no fiscal impact to our Division.

Second, this legislation requires that the full value determination within an area that is a school district, exclude the value of property assessed under AS 43.56, if the municipality does not levy a property tax. Property taxed under AS 43.56 refers to oil and gas property (such as the TAPS pipeline and pump stations along the pipeline). This property is assessed by the Department of Revenue, which levies a 20 mill tax against the property. A municipality that levies a tax under AS 29.45 may also levy the same rate of tax against the pipeline that it levies against local property (such as residences, offices and all other property.) The total of all property (AS 29.45 property and AS 43.56 property) is included in the full value determination and consequently, the entire amount is used in the calculation for the local contribution to education. However, this approach does not make much sense if an area does not levy a local property tax. This area would receive no direct tax revenue from the oil and gas property, however, we are required to include that value in the full value determination. The inclusion of AS 43.56 property values almost forces a municipality to levy a property tax in order to obtain enough revenue that the extra value will require for the local education contribution. By excluding this value in the first place, if a local tax is not levied, a municipality is not required to raise substantially more revenues to cover this additional valuation. It also allows the state to retain the tax revenue generated from the state 20 mill property tax.

There is no fiscal impact to this Division by the passage of this legislation. However, without this legislation, it is possible state revenue will decline in the future if boroughs do form along the TAP's pipeline corridor and are forced into levying a property tax rather than another form of revenue generation such as a local sales tax.



City of Delta Junction

P.O. Box 229, Delta Junction, Alaska 99737
Ph 907-895-4656 Fax 907-895-4375
www.ci.delta-junction.ak.us
city@ci.delta-junction.ak.us

Welcome to the
Friendly Frontier

March 8, 2005

cell 378-1320

Representative John Harris
State Capitol
Juneau, Alaska 99801

Via Fax# (907) 465-3799

Dear Representative Harris,

This letter serves as a request for assistance with legislation concerning local contributions for educational services. As you know, the issue of a possible borough in the Delta region is currently under review. One issue of concern is the requirement that a borough pay a four-mill equivalency of the value of all property including property covered by A.S. 43.56 (oil and gas properties). As you are aware, any tax on oil and property is not added to the existing state tax, but instead simply deducted from the amount the state receives.

According to the state, in the Delta region there is approximately \$217 million worth of oil and gas properties and somewhere close to another \$150 million worth of residential and commercial property. This means a borough would need to at least raise \$1.4 million for educational services out of which \$800,000 would come from the state's coffers.

Regardless of when a borough is organized in the region, the residents will seek as many options as possible to raise revenues. In light of the substantial value of the TAPS property within the Delta region, the residents may be unnecessarily forced to impose a property tax that in effect takes funds from the state of Alaska.

A better approach that benefits both the state and local residents would be an arrangement in which if a municipality with A.S. 43.56 properties chooses to not raise revenues through a property tax, that it must pay a four mill equivalence on only non-oil and gas properties. Such language could read as follows:

in making the determination for a municipality that is a school district or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded if a municipal tax is not levied under AS 29.45.080 in that school district.

Your help on these matters is greatly appreciated.

Sincerely,

Thomas "Roy" Gilbertson
Mayor

Cc: Pete Fellman Via Fax# (907) 895-5017

Upper Tanana Borough Valuation Summary Page

Valuations Estimates

(DELTA Area) Delta/Greely REAA	
Delta Commercial	\$ 24,483,300
Delta Residential	\$ 131,514,100
Personal Property	\$ 26,080,600
Sub-Total Delta/Greely (Area) REAA	\$ 182,078,000
Pogo Mine	\$ 125,000,000
AS 43.56 Prop.	\$ 194,500,000
Total Delta/Greely (Area) REAA	\$ 501,578,000

Est. 50% complete as of 1-1 2005

75 Miles @ \$1.9 million per mile plus 1 pump station (Ø) at \$52 million (P.S. 10 zero \$\$)

Education-Local Funding Requirement

(TOK Area) Alaska Gateway REAA	
Tok Commercial	\$ 10,652,900
Tok Residential	\$ 40,331,900
Personal Property	\$ 7,648,700
Sub-Total (Tok Area) Alaska Gateway REAA	\$ 58,633,500
Chicken/Mentasta/Tanacross Northway/Tetlin	\$ 4,951,000
Eagle	\$ 12,000,000
Total (Tok Area) Alaska Gateway REAA	\$ 75,584,500

Total Upper Tanana Basin Borough (\$577,162,500)

Local Contribution Requirement **\$2,308,650**

Delta/Greely REAA w/o pipeline (\$307,078,000)

Local Contribution Requirement **\$1,228,312**

Delta/Greely REAA with pipeline (\$501,578,000)

Local Contribution Requirement **\$2,006,312**

Alaska Gateway REAA w/o Villages (\$58,633,500)

Local Contribution Requirement **\$234,534**

Alaska Gateway REAA w/o Villages & Eagle (\$75,584,500)

Local Contribution Requirement **\$302,338**

Total Value of Proposed Upper Tanana Basin Model Borough	\$ 577,162,500
---	-----------------------

March 29, 2005

Rep. John Harris
State Capitol Room 208
Juneau, AK 99801-1182

RE: HB 217

Dear Representative Harris,

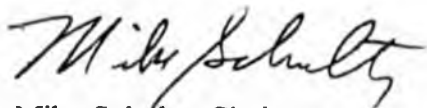
This letter serves as a request for assistance with HB 217 concerning local contributions for educational services. As you know, the issue of a possible borough in the Delta region is currently under review. One issue of concern is the requirement that a borough pay a four mill equivalency of the value of all property including property covered by A.S. 43.56 (oil and gas properties). Any local tax on oil and gas property is not added to the existing state tax, but instead is deducted from the amount the state receives.

HB 217 would not require a borough to contribute four mills of the value of A.S. 43.56 properties if such a borough does not institute a property tax system.

Regardless of when a borough is organized in the region, the Delta residents seek as many options as possible to raise revenues. In light of the substantial value of the TAPS property within the Delta region, the residents may be unnecessarily forced to impose a property tax that in effect takes funds from the state of Alaska. Again, HB 217 would allow for a logical and cost saving option that would benefit both the state and local government.

Your help on these matters is greatly appreciated.

Sincerely,



Mike Schultz, Chairperson
Deltana Borough Commission



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

April 15, 2005

The Honorable Bill Thomas
Co-Chair
Community and Regional Affairs Committee
Alaska State House of Representatives
Alaska State Capitol, Room 428
Juneau, Alaska 99801-1182

The Honorable Kurt Olson
Co-Chair
Community and Regional Affairs Committee
Alaska State House of Representatives
Alaska State Capitol, Room 110
Juneau, Alaska 99801-1182

Re: House Bill Number 217

Dear Representatives Thomas and Olson:

This is to advise you that the Local Boundary Commission has, by unanimous vote, endorsed House Bill 217, "An Act relating to the determination of full and true value of taxable municipal property for purposes of calculating funding for education and certain other programs."

The objectives of House Bill 217 coincide with recommendations presented by the Commission to the Legislature as ways in which the State can create incentives for voluntary incorporation of boroughs. Details of the Commission's views on this particular issue are expressed on pages 126 – 128 of the *Report of the Alaska Local Boundary Commission to the First Session of the Twenty-Fourth Alaska State Legislature*. To facilitate matters, a copy of those pages is enclosed.

Please accept this letter and the enclosure as written testimony on the bill.

Sincerely,

Darroll Hargraves
Chair

Enclosure:
pages 126 – 128, LBC 2005 report to the Legislature

cc/enc: Members of the Local Boundary Commission
Edgar Blatchford, Commissioner, Department of Commerce, Community, and
Economic Development

4. Eliminate the Necessity That Boroughs Encompassing the Trans-Alaska Oil Pipeline Must Impose Property Taxes.

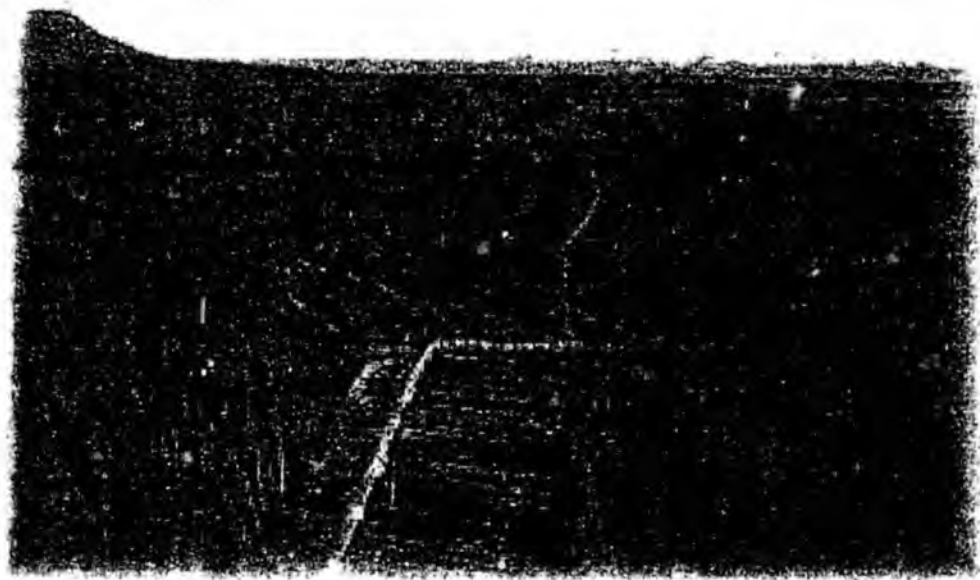
Under current law, organized boroughs are required to make financial contributions in support of their schools. The contributions are based on the value of taxable property within the borough. Each borough must contribute the equivalent of a 4-mill tax on the full and true value of taxable property within the borough (not to exceed 45 percent of the educational "basic need" for the borough school district).

The full and true value of a borough includes all oil and gas exploration, development, and transportation property within the borough assessed by the Department of Revenue (DOR) under AS 43.56. The State of Alaska levies a 20-mill property tax on the value of that property and credits the oil companies for taxes paid to a borough or city.

Given the current law, unorganized regions encompassing significant oil and gas exploration, development, and transportation

properties would, upon borough incorporation, be faced with the prospect of substantial local contributions when calculating their 4-mill tax in support of schools. Consequently, the areas would likely have no practical alternative means of generating the required local contribution except through the levy of property taxes. The practical necessity of levying a property tax under such circumstances is a disincentive for borough formation because residents of unorganized areas generally seem to least prefer a property tax than any other type of local tax imposed on the general population. Four of the sixteen organized boroughs in Alaska do not levy property taxes.

The benefit to the State from the higher contributions resulting from the inclusion of the value of the oil and



Trans-Alaska Pipeline

gas property, of course, would be directly offset by reductions in State revenues from the State's 20-mill *ad valorem* property tax on the property in question. Thus, the amendment proposed here would have no fiscal impact on the State.

In reality, the State would likely be better off from a fiscal standpoint by such an exemption so long as local government property taxes were not levied on any oil and gas property within the borough. Doing so would insulate the State's 20-mill property tax from all fiscal impacts relating to a new borough, not just those associated with the borough's required local contribution for schools.

Such a provision would reduce impediments to borough formation in the Upper Tanana Basin, Copper River Basin, Yukon-Koyukuk region, and the Yukon Flats region. The LBC emphasizes that this option would not preclude a borough government from levying property taxes in a region with substantial oil and gas properties. It simply would not make it a practical requirement.

In 2001, the Alaska Senate adopted Senate Bill No. 48 (CS for Senate Bill No. 48(FIN) am), which included the identical provision recommended here. Because of other provisions in the bill, however, the legislation was not approved by the House. Section 2 of

Senate Bill No. 48 provided as follows (underlined bold text reflects the additional language):

AS 14.17.510(a) is amended to read:

(a) To determine the amount of required local contribution under AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the Department of Community and Economic Development, in consultation with the assessor for each district in a city or borough, shall determine the full and true value of the taxable real and personal property in each district in a city or borough. If there is no local assessor or current local assessment for a city or borough school district, then the Department of Community and Economic Development shall make the determination of full and true value from information available. In making the determination, the Department of Community and Economic Development shall be guided by AS 29.45.110. **However, the full and true value of taxable real and personal property in any area detached shall be excluded from the determination of the full and true value of the municipality**

from which the property was detached for the two years immediately preceding the effective date of the detachment. Also, in making the determination for a municipality that is a school district or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded if a municipal tax is not levied under AS 29.45.080 in that school district. The determination of full and true value shall be made by October 1 and sent by certified mail, return receipt requested, on or before that date to the president of the school board in each city or borough school district. Duplicate copies shall be sent to the commissioner. The governing body of a city or borough that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Community and Economic Development only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

5. Extend Municipal Land Grants for Annexations and Consider Increases in Entitlements.

Under current law, a borough incorporated after July 1, 1978, is entitled to ten percent of the vacant, unappropriated, unreserved state lands within its boundaries. To encourage borough annexations, it is suggested that the same grants be given for any area annexed to an existing borough.

The Alaska Municipal League endorses municipal land entitlements as a means to promote annexation to boroughs. The League's formal position on the matter is set out below:

The League supports legislative changes to entitlement lands provisions to encourage existing municipalities to provide services to portions of the unorganized borough through annexation.

Alaska Municipal League, 2005 Policy Statement, Part III-E-3.

The prospect of increasing land entitlements to existing and future boroughs should also be explored as further incentive for the extension of borough government.

Potential Effects of HB217 on Mining Industry in Alaska

Passage of HB 217 could have severe consequences for the Pogo project, with adverse ramifications for the entire Alaska mining industry.

HB 217 would have the effect of removing oil and gas property that is taxed under AS 43.56 from being included in value of a municipality for the purposes of determining the local contribution for schools required under AS 14.17.410(b)(2) if that municipality did not levy a property tax under AS 29.45.080.

Thus in the Delta region, if there were no property tax levied, the \$194.5 million in existing pipeline value would be removed from the tax base.

The effect would be to initially reduce the required local school contribution by \$778,000 per year. This has the potential benefit of making it easier for Delta residents to organize and operate a new borough without a property tax. Unfortunately, this may also have the unintended consequence of shifting the entire tax burden of a new borough to Pogo because the requirement for broad-based taxes or local revenue generation would be reduced. As a case in point, a proposal approved by committee in Delta on April 6 assumes no property tax, but rather would place a targeted tax on Pogo sufficiently high that Pogo would pay many millions over the mine life in excess of the entire cost of local government. Under this scenario, no other local taxes would be required to achieve a balanced budget. Even though other minor taxes might be proposed, these other local taxes would not likely be approved by voters and Pogo would end up as the sole taxpayer. Long term, this puts Pogo in a very unacceptable and uncertain position.

Allowing excessive or targeted taxes on new mining projects in the unorganized borough is bad policy for the State of Alaska. If this were to occur, it would send a chilling message throughout the mining industry that Alaska's tax regime is neither stable nor reasonable. Mining projects in other parts of rural Alaska could be adversely affected. Risk capital and exploration dollars currently being spent to discover additional deposits would diminish and reduce growth opportunities in Alaska.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 217
(H) Publish Date: 4/26/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title: Full & True Value of Taxable RDU: Comm Assist & Ec Dev (405)
Municipal Property Component: Community Advocacy
Sponsor: Harris
Requester: House Community & Regional Affairs Component No.: 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation affects the full value determination with respect to two different scenarios. First, it clarifies that if an area is detached from a municipality, the full and true value of the municipality, from which the area detached, will exclude the value that existed for the two years preceding the detachment. This is necessary due to existing statutes which, require local contribution for schools based upon the value determined "as of January 1 of the second preceding fiscal year." In other words, the full value determined this year (2005) would not be used for a municipality's local education requirement for two more years (2007). Therefore, when an area is detached, it should not be this year's value that is used, but the value as of two years ago. This portion of the legislation has no fiscal impact to the division.

Prepared by: Michael Black, Director Phone 907.269.4578
Division: Community Advocacy Date/Time 4/13/05 3:08 PM
Approved by: Edgar Blatchford, Commissioner Date 4/13/2005
Agency: Commerce, Community, and Economic Development

FISCAL NOTE #1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 217

ANALYSIS CONTINUATION

Second, this legislation requires that the full value determination within an area that is a school district, exclude the value of property assessed under AS 43.56, if the municipality does not levy a property tax. Property taxed under AS 43.56 refers to oil and gas property (such as the TAPS pipeline and pump stations along the pipeline). This property is assessed by the Department of Revenue, which levies a 20 mill tax against the property. A municipality that levies a tax under AS 29.45 may also levy the same rate of tax against the pipeline that it levies against local property (such as residences, offices and all other property.) The total of all property (AS 29.45 property and AS 43.56 property) is included in the full value determination and consequently, the entire amount is used in the calculation for the local contribution to education. *If an area does not levy a local property tax, this area would receive no direct tax revenue from the oil and gas property, while the the division would be required to include that value in the full value determination. The inclusion of AS 43.56 property values could compel a municipality to levy a property tax in order to obtain enough revenue that the extra value will require for the local education contribution. By excluding this value in the first place, if a local tax is not levied, a municipality is not required to raise substantially more revenues to cover this additional valuation. It also allows the state to retain the tax revenue generated from the state 20 mill property tax.*

There is no fiscal impact to this division by the passage of this legislation. However, without this legislation, it is possible state revenue will decline in the future if boroughs do form along the TAP's pipeline corridor and are forced into levying a property tax rather than another form of revenue generation such as a local sales tax.

HB

229

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-2162



During Session
State Capitol Rm 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242

Majority Whip

House Bill 229

"An Act relating to the reinstatement of Native corporations; and providing for an effective date."

Sponsor's Statement

This legislation has been introduced at the request of one of the Regional Native Corporations within our District. Corporations have been involuntarily dissolved by the commissioner under AS 10.06.633 and failed to apply for reinstatement during the grace period established in statute.

This legislation provides a one-time window during which Native Village Corporations who have been dissolved can apply for reinstatement.

The legislation is needed because these corporations were established under the Alaska land claims settlement and legally own village corporation assets. A new corporation could be created but it would not have the same legal standing as the original corporations nor legally own those assets.

The Final provision of the bill allows a Village Native Corporation's board of directors to legally change the corporation's name, if another corporation has taken the previously used name.

This Legislation will apply to Caswell Native Association (date not known), Savoonga Native Corporation (should have reinstated by 12/31/03), Arviq Incorporated (should have reinstated by 2/25/04), and Oscarville Native Corporation (should have reinstated by 2/25/04)

HB 229

"An Act relating to the reinstatement of Native corporations; and providing for an effective date."

Representative Richard Foster

Talking Points

- Legislation provides a one-time window during which Native village corporation who have been involuntarily dissolved can apply for reinstatement.
- These Corporations need to be reinstated because they hold the assets that were granted to Native village incorporation under the Alaska land claims settlement.
- A newly created corporation would not automatically hold those same assets even if it had the same name as the original corporation.

Possible Side Issues

- Every two years a \$100 fee and a report listing the corporate officers are required by the State.
- A request for reinstatement can be made during the next two years. A penalty of 37.5 is added to the \$100. At the end of this two-year period the corporation is involuntarily dissolved.
- To be reinstated the corporation would have to pay the two required \$100 fees and two penalty fees, i.e. \$275
- The approximate cost for issuing the certificate of incorporation is \$61 so there is a slight positive fiscal impact but not enough to warrant anything but a zero fiscal note.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version HB 229
 () Publish Date _____

Revision Date/Time (Note if correction): _____
 Title Reinstatement of Native Corporations

Dept. Affected: Commerce
 RDU Occupational Licensing (117)
 Component Occupational Licensing

Sponsor Foster, Hawker
 Requester House Community & Regional Affairs

Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation reinstates certain Native corporations that have been involuntarily dissolved under AS10.06.633(e), provided they apply on or before December 31, 2006. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone (907) 465-2144
 Date/Time 3/30/05 4:59 PM
 Date 3/30/2005

HB

278

Pension Obligation Bonds

Testimony to the Senate Community & Regional Affairs Committee

April 28, 2006

Carol Samuels, Vice President
(503) 275-8301

Lindsay Sovde, Vice President
(206) 628-2875



SEATTLE-NORTHWEST
SECURITIES CORPORATION

What is a Pension Obligation Bond?

- A pension obligation bond is a financing used to defray unfunded pension costs.
 - Pension systems measure assets on hand against the present value of projected liabilities over the long term.
 - If liabilities exceed assets, the difference is known as the “Unfunded Accrued Actuarial Liability” or “UAAL.”
 - With lagging investment returns, increases in healthcare costs, and actuarial revaluations, many public and private pension systems have found themselves significantly under-funded.
 - Repayment of the UAAL is amortized over a fixed period and built into payroll rates at a given interest rate, 8.25 percent in Alaska.
 - Retirement system thereby becomes the “banker” for the shortfall, as employers repay the loan over the amortization period.
- Many jurisdictions have used Pension Obligation Bonds to refinance these system “loans” at rates lower than the amortization rate.**



Why Pension Obligation Bonds Might be Useful in Alaska

2

- According to the recently released 2004 valuation, assuming above-average growth in population:
 - PERS rates rise to **32% of payroll** beginning in 2011, and do not decline until 2029.
 - TRS rates rise to **50% of payroll** in 2011 and continue increasing to 56% by 2028 before declining.
- Pension obligation bonds can be an effective tool for immediately reducing payroll rates and producing long term savings for jurisdictions.
- In Oregon, jurisdictions are projected to save over \$1.3 billion from use of this technique.



SEATTLE-NORTHWEST
SECURITIES CORPORATION

Alaska Pension System *

	Alaska	
	<u>PERS</u>	<u>TRS</u>
Asset base	\$8.2 billion	\$3.9 billion
Covered Employees	71,009	21,865
Average employer rate	16.77% ⁽¹⁾	21.00% ⁽²⁾
Funded ratio	72.00% ⁽³⁾	50.00% ⁽³⁾
UAAL as of 2003 valuation	\$3.4 billion ⁽⁴⁾	\$2.3 billion ⁽⁴⁾

*As June 30, 2004.

- (1) Actuarially computed at 28.19% by Mercer and 30.37% by Buck.
- (2) Actuarially computed at 41.78% by Mercer.
- (3) Beginning in 2011. TRS projected to continue issuing to 56% by 2028.
- (4) Projected at \$4.4 billion and \$2.5 billion by Buck. Rates projected at 32.43% and 42.14% for 2005.



SEATTLE-NORTHWEST
SECURITIES CORPORATION

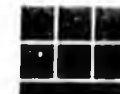
Bonding a Popular Tool

Many jurisdictions throughout the country have chosen to finance PERS liabilities with bonds.

In Oregon:

- A total of 133 school districts, cities, counties and the State have issued \$5.4 billion of pension bonds in Oregon.
- Savings projected at \$1.3 billion overall, assuming an 8.00% rate of return.
- Original statutory authority provided to local governments and school districts in 2001 for issuance of “full faith and credit obligations.”
- School Districts also granted authority to enter into intercept agreement with the State, whereby operating funds were additionally pledged. This approach resulted in “State” credit rating.
- State Constitutional amendment approved by voters in 2003 authorizing the State to issue GO bonds for its share of the liability. Voter approval margin was 55.25%.

Although bonds have to be sold on a taxable basis, interest rates for most borrowings have been well under 6%.

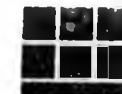


SEATTLE-NORTHWEST
SECURITIES CORPORATION

The Arbitrage Issue

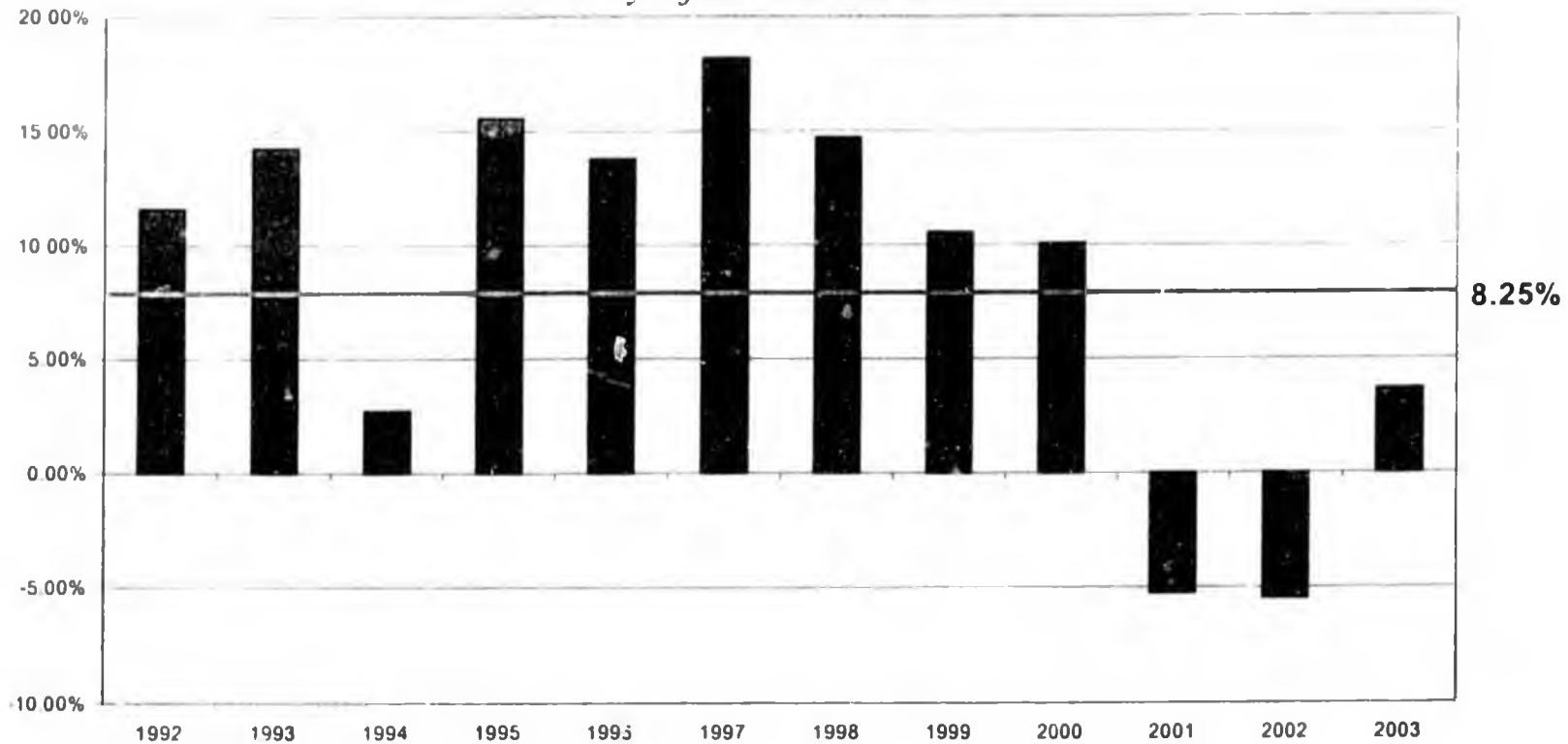
Issuing a pension bond is not like refinancing your mortgage...

- Success from borrowing depends on the market returning more than the cost of the bond.
 - For Alaska borrowers, if investment returns equal 8.25% over 25 year period over the life of the bonds, costs will be reduced as estimated.
 - If returns are greater than 8.25%, cost reductions will be greater than projected.
 - If returns are less than 8.25% cost reductions will be positive, but less than projected.
 - If returns are less than the bond yield, borrowers will be worse off than those who do not borrow.



Alaska PERS

Alaska Public Retirement System *History of Investment Results*



In Oregon, PERS has a long history of strong investment performance:

10 year average: 12.38%

15 year average: 12.69%

56 year average: 10.84%



SEATTLE-NORTHWEST
SECURITIES CORPORATION

Oregon Process

- Bond proceeds are placed in a “lump sum account” for benefit of employer. Earnings and losses directly accrue to that account.
- Lump sum account is used to provide prepayment credit on payroll rates charged to jurisdictions.



Recent Returns – Oregon Lump Sum Accounts

TREASURY

Issuer	Par Amount	TIC	Total Return	Annualized
Series 2005 - Local Government Pool	\$ 186 m	5.04%	6.06%	14.55%
Series 2005 School District Pool	\$ 492 m	4.77%	12.43%	18.65%
Series 2005 Community College Pool	\$ 57m	4.86%	12.43%	18.65%
Series 2004 - Local Government Pool	\$ 126 m	6.11%	30.69%	17.54%
Series 2004 - School District and Community College Pool	\$ 400 m	5.49%	29.88%	14.94%
Series 2003- School District and Community College Pool	\$ 1,080 m	5.73%	59.71%	21.08%
Series 2002 - School District Pool	\$ 775 m	5.60%	67.21%	20.16%
Series 2002 A&B - Local Government Pool	\$ 238 m	7.00%	50.42%	12.87%



SEATTLE-NORTHWEST
SECURITIES CORPORATION

Alaska PERS

System-wide Refinancing Analysis

- A refinancing of the \$3.4 billion PERS UAAL could result in net present value savings of over \$1 billion.

	FY 2007	FY 2008	FY 2009	FY 2010
Total PERS Rate	21.77%	26.77%	31.47%	31.97%
Less: Projected Rate Credit	(15.50%)	(15.50%)	(15.50%)	(15.50%)
Plus: Debt Cost	12.36%	12.43%	12.43%	12.43%
Net PERS Rate	18.63%	23.70%	28.40%	28.90%
Net Savings in PERS Rate	3.14%	3.07%	3.07%	3.07%
Net Cashflow Savings	\$51,161,811	\$51,944,574	\$53,987,342	\$56,147,686

Note: TIC assumed 5.75%



SEATTLE-NORTHWEST
SECURITIES CORPORATION

Alaska TRS

System-wide Refinancing Analysis

- Present value savings projected at over \$650 million.

	FY 2007	FY 2008	FY 2009	FY 2010
Total TRS Rate	21.00 %	26.00%	31.00%	36.00%
Less: Projected Rate Credit	(21.00%)	(26.00%)	(30.76%)	(30.76%)
Plus: Debt Cost	14.58%	19.82%	24.74%	24.74%
Net TRS Rate	14.58%	19.82%	24.98%	29.98%
Net Savings in TRS Rate	6.42%	6.18%	6.02%	6.02%
Net Cashflow Savings	\$37,055,731	\$37,070,595	\$37,583,609	\$39,089,894

Note: TIC assumed 5.75%



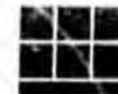
SEATTLE-NORTHWEST
SECURITIES CORPORATION

Lessons Learned

1. Payment to PERS does NOT guarantee UAAL will be paid off in full.
2. What happens if UAAL is subsequently reduced or increased?
 - Reductions: Lump sum payment would put jurisdiction in surplus. Funds will not be returned to jurisdiction, but surplus is used to reduce payroll rates further.
 - Increases: Lump sum payment would defray total deficit. UAAL would not be as high as would otherwise be the case.

In any case, arbitrage risks remain the same for existing lump sum payment.

3. Structure of the financing matters
 - Inappropriate to use unrealistic assumptions about rates of return.
 - Amortization structure of bonds should match amortization of UAAL that PERS system uses.
 - Not prudent to have back weighted structured where all savings are produced in early years.



Lessons Learned

4. The “housekeeping issues” are often the most critical
 - Adequate protection and proper accounting of lump deposits are critical.
 - Statutes and regulations needed to ensure that the employers making the deposit are the ones getting the credit, and that credit is for appropriate amount.
5. Bond Related Considerations
 - Bonds are not likely to be subject to early redemption.
 - Rating agencies will scrutinize structure carefully to ensure payment of liability is not further deferred.
 - Changes “soft” liability to “hard” liability, which may put some limitations on financial flexibility.
6. Variations in payroll growth not immediately reflected in debt structure
 - Under current structure, if payroll declines, payments to PERS decline.
 - Using bonds, if payroll declines, payments on the bonds do not change.



House Bill 278

Authorizes access to capital markets for the purpose of financing pension liabilities.

- Provides express authorization for all types of jurisdictions to issue obligations for this purpose either individually or through another entity.
 - Provides authorization for individual jurisdictions to pool together through a state entity such as Bond Bank or through a Trustee to achieve economics of scale.
 - Allows for credit support to enhance access to the market such as:
 - Bond reserves
 - Bond insurance
 - Permits jurisdictions to enter into intercept agreements with state agencies for credit enhancement purposes.
 - Provides protection for lump sum payments made to PERS System and ensures credit is provided only to jurisdictions making the deposit.
- **We are supportive of HB 278 because it provides a tool for jurisdictions to use at their discretion to potentially defray considerable costs in meeting pension obligations.**



Questions?

- Carol Samuels, SNW
 - (503) 275-8301
 - csamuels@snwsc.com
- Lindsay Sovde, SNW
 - (206) 628-2875
 - lsovde@snwsc.com
- John Wanamaker
 - (907) 278-4804
 - jwanamaker@snwsc.com

