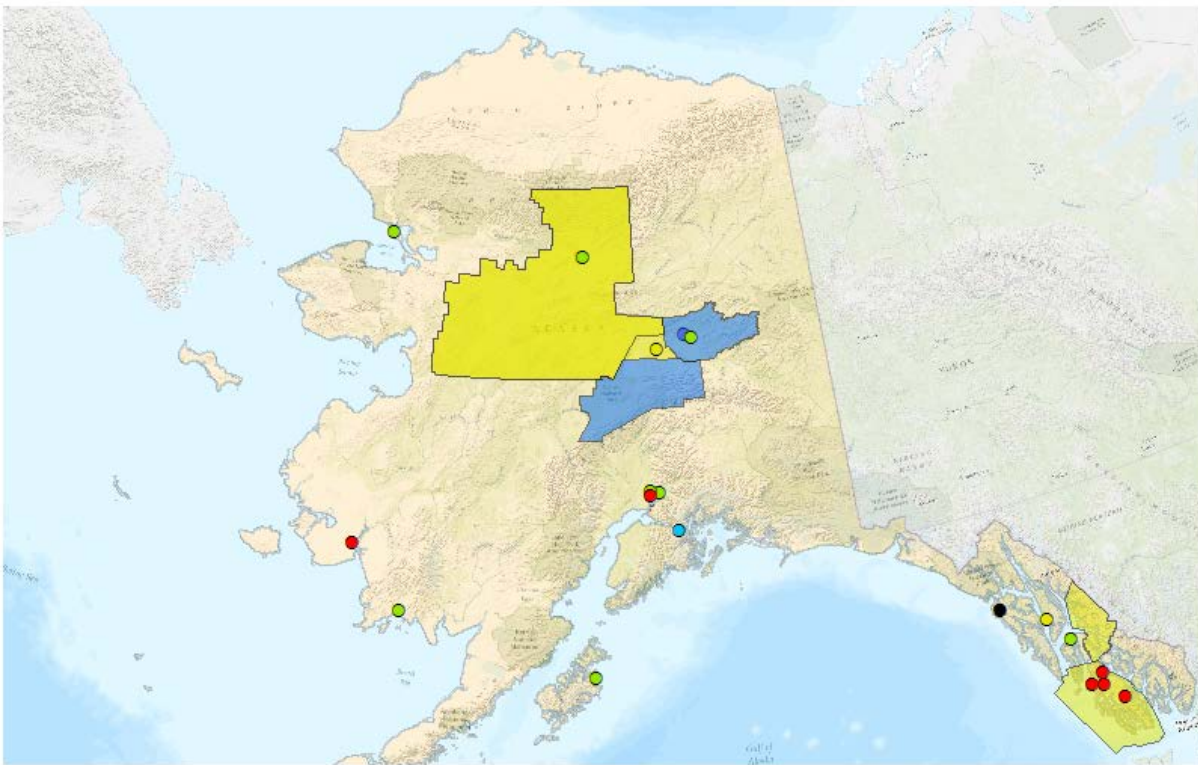


Local Boundary Commission

Report to the 28th Alaska

State Legislature, 2nd Session

January 2014



Inquires or petitions to the LBC

- | | | |
|---|---|--|
| <ul style="list-style-type: none">● City incorporation<ul style="list-style-type: none">• Big Lake• Edna Bay• Hollis• Naukati Bay• Tuntutuliak• Whale Pass | <ul style="list-style-type: none">● City annexation<ul style="list-style-type: none">• Allakaket• Houston• Kake• Kodiak• Kotzebue• North Pole• Togiak• Wasilla | <ul style="list-style-type: none">■ Borough annexation<ul style="list-style-type: none">• Denali Borough• Fairbanks North Star Borough● Municipal merger<ul style="list-style-type: none">• Whittier● City detachment<ul style="list-style-type: none">• Fairbanks● City reclassification<ul style="list-style-type: none">• Pelican |
| <ul style="list-style-type: none">■ Borough incorporation<ul style="list-style-type: none">• Angoon• Nenana• Petersburg Borough• Prince of Wales• Yukon-Koyukuk | | |

Lynn Chrystal, Chair

John Harrington, First Judicial District

Robert Harcharek, Second Judicial District

Darroll Hargraves, Third Judicial District

Lavell Wilson, Fourth Judicial District



Local Boundary Commission

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The Local Boundary Commission complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4587, 269-4559, and TDD at 907-465-5437. This report is also available on the Local Boundary Commission's website at:

<http://www.commerce.alaska.gov/dcra/lbc/lbc.htm>

Graphic Illustration Only – This publication's maps are intended to be used only as general reference guides. Source documents remain the official record



State of Alaska Local Boundary Commission

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Telephone: 907-269-4559 • Fax 907-269-4563

January 2014

Dear members of the Alaska State Legislature:

As members of the Local Boundary Commission (LBC), we are pleased to present our annual report to the Second Session of the Twenty-eighth Alaska State Legislature. This report describes the LBC and the activities of the commission and its staff. Previous reports encompassed a calendar year, but this and future reports will cover the first 10 months of a calendar year. The last two months of 2013 will be reported in the 2014 annual report.

There are boundary issues, present since statehood, of particular interest to the commission, including:

1. Developing adequate incentives to encourage borough formation and annexation to existing boroughs.
2. Informing the Legislature and Alaskan citizens about the commission's role and duties.

The LBC is eager to work collaboratively with the Alaska State Legislature to address these local boundary change issues, and to help shape our state's future municipal landscape.

Very truly yours,

The Local Boundary Commission

Lynn Chrystal,
Chair

John Harrington,
Commissioner

Robert Harcharek,
Commissioner

Darroll Hargraves,
Commissioner

Lavell Wilson,
Commissioner

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CHAPTER 1 BACKGROUND

SECTION I: LOCAL BOUNDARY COMMISSION

Local Boundary Commission's Constitutional Foundation

Article X of the Constitution of the State of Alaska created the Local Boundary Commission (also referred to as "LBC" or "commission").¹ The commission is responsible for establishing and modifying proposed municipal government boundaries. The Alaskans who drafted the state's constitution believed that local governments should have authority to determine which powers they would exercise, and they also asserted their belief that the state should set municipal boundaries because "local political decisions do not usually create proper boundaries and that boundaries should be established at the state level."² Placing decision-making authority with a state body allows debate about boundary changes to be analyzed objectively, taking areawide or statewide needs into consideration.³

Local Boundary Commission's Statutory Authority

Pursuant to 29.06.040(a):

The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise, it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62.

¹ Article X, section 12 states, "A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the Legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action."

² Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540, 543 (Alaska 1962) (citing Alaska Constitutional Convention Minutes of Committee on Local Government, November 28 and December 4, 1955).

³ *Id.*

LBC Duties and Functions

The LBC acts on proposals for several different municipal (cities and boroughs) boundary changes. These are:

- Incorporating municipalities
- Annexing to municipalities
- Merging municipalities
- Consolidating municipalities
- Detaching from municipalities
- Dissolving municipalities
- Deunifying municipalities
- Reclassifying municipalities

In addition to acting on the above proposals for municipal boundary changes, the LBC under AS 44.33.812 shall:

- Make studies of local government boundary problems
- Adopt regulations providing standards and procedures for municipal incorporation, annexation, merger, consolidation, detachment, dissolution and reclassification.

Nature of the Commission

Boards and commissions frequently are classified as quasi-executive, quasi-legislative, or quasi-judicial, based on their functions within the Alaska constitution's separation of powers framework. The LBC is a quasi-legislative commission with quasi-executive and quasi-judicial attributes, all of which are discussed below.

Quasi-Legislative

In 1974, 1976, and again in 1993, the Alaska Supreme Court stated that Alaska's constitution gives the LBC legislative authority to make fundamental public policy decisions. The court stated that:

[T]he Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission's reading of the standards and its evaluation of the evidence.⁴

⁴ *Mobil Oil Corp. v. Local Boundary Comm'n*, 518 P.2d 92, 98-99 (Alaska 1974). See also *Moore v. State*, 553 P.2d 8, n. 20 at 36 (Alaska 1976); and *Valleys Borough Support v. Local Boundary Comm'n*, 863 P.2d 232, 234 (Alaska 1993).

Under AS 44.33.812(a)(2), the LBC carries out another quasi-legislative duty when it adopts “regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution. . . .”⁵

Quasi-Executive

Article X, section 12 of Alaska’s constitution placed the LBC in the state’s executive branch. One example of the commission’s quasi-executive duty under AS 44.33.812(a)(1) is to “make studies of local government boundary problems.”

Quasi-Judicial

Although it is part of the executive branch and exercises delegated legislative authority, the LBC also has a quasi-judicial nature. The LBC is mandated to apply established standards to facts, to hold hearings, and to follow due process in conducting petition hearings and rulings.

The LBC’s quasi-judicial nature requires that a reasonable basis of support exist for the LBC’s reading of the standards and evaluating the evidence. The LBC’s quasi-legislative nature provides it with considerable discretion in applying those standards and weighing evidence.

Limits on Directly Contacting the LBC

When the LBC acts on a petition for a municipal boundary change, it does so in a quasi-judicial capacity. LBC proceedings regarding a municipal boundary change must be conducted in a manner that upholds everyone’s right to due process and equal protection. Those rights are preserved by ensuring that communications with the commission concerning municipal boundary proposals are conducted openly and publicly.

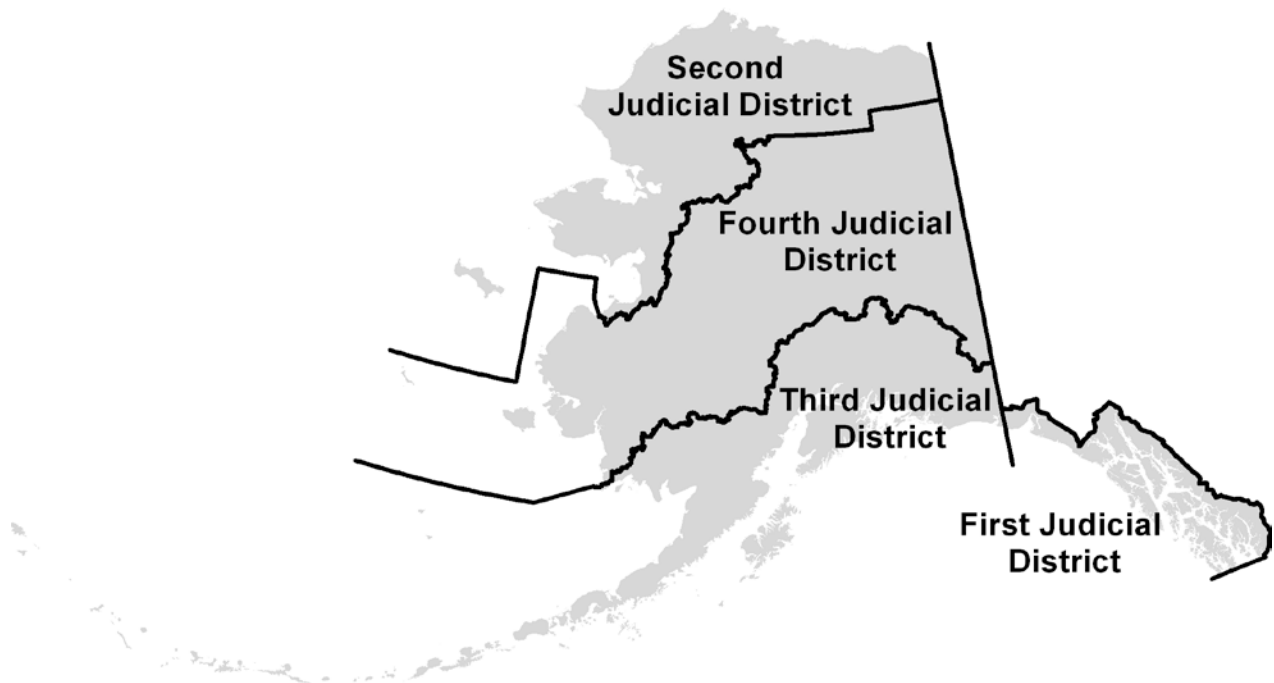
To regulate communications, the commission adopted 3 AAC 110.500(b) which expressly prohibits private (*ex parte*) contact between the LBC and any individual other than its staff, except during a public meeting called to address a municipal boundary proposal. The limitation takes effect upon a petition’s filing and remains in place through the last date available for the commission to reconsider a decision. If a LBC decision is judicially appealed, the *ex parte* limitation extends to the last date of court ordered proceedings. All communications with the commission must be submitted through its staff.

⁵ See *U.S. Smelting, Refining & Min. Co. v. Local Boundary Comm’n*, 489 P.2d 140 (Alaska 1971), discussing applying due process requirements to develop boundary change standards and procedures in commission proceedings.

LBC Membership

The LBC is an autonomous commission. The governor appoints LBC members for five-year overlapping terms (AS 44.33.810). Notwithstanding their terms' prescribed length, however, LBC commissioners serve at the governor's pleasure [AS 39.05.060(d)].

The LBC is comprised of five members (AS 44.33.810). One member is appointed from each of Alaska's four judicial districts. The chair is appointed from the state at large. LBC members receive no pay for their service.



Map of Alaska Judicial Districts

Member Biographies:**Lynn Chrystal, Chair, At Large Appointment, Valdez**

Governor Palin appointed Lynn Chrystal as the member from the Third Judicial District on March 27, 2007. Governor Parnell appointed him as the Local Boundary Commission's chair on September 10, 2009. Mr. Chrystal is a current resident and former mayor of the City of Valdez, and former member of the Valdez City Council. He has lived in Valdez since 1975. Mr. Chrystal retired in 2002 from the federal government after four years in the Air Force and 36 years with the National Weather Service. He has worked in Tin City, Barrow, Yakutat, and Valdez. Chair Chrystal has served on the boards of several civic groups and other organizations including the Resource Development Council, Pioneers of Alaska, and Copper Valley Electric Cooperative. His current term on the LBC ends January 31, 2018.

**John Harrington, First Judicial District, Ketchikan**

Governor Parnell appointed John Harrington of Ketchikan as the member from the First Judicial District on the Local Boundary Commission on September 10, 2009. Governor Parnell reappointed him in April of 2011. Mr. Harrington is a real estate manager and previously worked as an adult education coordinator in Ketchikan from 1985-97. He was also a special education teacher and administrator in Washington state from 1972-84. He served on the Ketchikan Gateway Borough Assembly 2005 through 2011, chairing the borough's Planning Liaison and Economic Development Advisory Committee, among others. His community service includes chairing the North Tongass Fire and EMS Service Area Board from 2002-05, serving on the Ketchikan Charter Commission from 2003-04, and serving as an elected member of the Ketchikan Gateway Borough school board from 1988-94. Commissioner Harrington earned a bachelor's degree in psychology and history from Western Washington University and a master's degree in educational administration from Seattle University. His current term on the LBC ends January 31, 2016.

**Robert "Bob" Harcharek, Vice Chair, Second Judicial District, Barrow**

Governor Knowles appointed Robert "Bob" Harcharek as the member from the Second Judicial District on the Local Boundary Commission on July 18, 2002. Governor Murkowski reappointed him to the LBC on March 24, 2004. He has served as the commission's vice chair. On March 9, 2009, Governor Palin reappointed him to the LBC. In 1977 he earned a Ph.D. in international and development education from the University of Pittsburgh. Commissioner Harcharek served for three years in Thailand as a Peace Corps volunteer. Dr. Harcharek has lived and worked on the North Slope for more than 30 years. Commissioner Harcharek

recently retired from the North Slope Borough as the Community and Capital Improvement Projects (CIP) Planner for the Department of Public Works. He served as a member of the Barrow City Council for fifteen years, and is currently Mayor and Chief Administrative Officer for the City of Barrow. His current LBC term ends January 31, 2014.



Darroll Hargraves, Third Judicial District, Wasilla

Governor Parnell appointed Darroll Hargraves of Wasilla to the Local Boundary Commission as the member from the Third Judicial District on June 1, 2013. Mr. Hargraves is a consultant and owner of School and Community Resources. He is a retired school superintendent of the Nome and Ketchikan Gateway Borough school districts, and has served as the executive director of the Alaska Council of School Administrators. Commissioner Hargraves is a charter member of the Alaska Council of Economic Education, Commonwealth North, and the Wasilla Chamber of Commerce. A former member and chair of the LBC, he holds a master's degree in education, an education specialist degree from University of Alaska Fairbanks, and an honorary doctorate of letters degree from Oakland City University. His term ends on January 31, 2017.



Lavell Wilson, Fourth Judicial District, Tok

Governor Palin appointed Lavell Wilson, a Tok resident, as the member from the Fourth Judicial District on the Local Boundary Commission, June 4, 2007. Governor Parnell reappointed him on October 6, 2010. Commissioner Wilson is a former member of the Alaska House of Representatives, serving the area outside of the Fairbanks North Star Borough in the Eighth State Legislature. He moved to Alaska in 1949 and has lived in the Northway/Tok area since. Commissioner Wilson attended the University of Alaska Fairbanks and Brigham Young University. Commissioner Wilson worked as a licensed aircraft mechanic, commercial pilot, and flight instructor for 40 Mile Air from 1981-1995, retiring as the company's chief pilot and office manager. Mr. Wilson became a licensed big game guide in 1963. He has also worked as a surveyor, teamster, and construction laborer, retiring from the Operating Engineer's Local 302 in Fairbanks. As a member of Local 302, he worked for 12 years on the U.S. Air Force's White Alice system, the ballistic missile defense site at Clear, and the radar site at Cape Newenham. His current term on the LBC ends January 31, 2015.

SECTION II LOCAL GOVERNMENT AGENCY

Constitutional Origin

Alaska's constitution called for establishing an executive branch agency to advise and assist local governments (article X, section 14). The duty to serve as that local government agency is presently delegated to the Alaska Department of Commerce, Community, and Economic Development (Commerce, DCCED, or department). Commerce serves as staff to the LBC per AS 44.33.020(a)(4). Within Commerce, the Division of Community and Regional Affairs (DCRA) performs the local government agency's functions.⁶ This includes providing staff, research, and assistance to the LBC.

LBC Staff Role

LBC staff is required by law⁷ to investigate and analyze each boundary change proposal and to make recommendations regarding the proposal to the LBC. For each petition, staff will write at least one report for the commission. The report(s) is made available to the public as well. Staff recommendations to the LBC are based on properly interpreting the applicable legal standards, and rationally applying those standards to the proceeding's evidence. Due process is best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal.

The LBC staff provides support to the commission. The LBC's staff also delivers technical assistance to municipalities, to residents of areas impacted by existing or potential petitions to create or alter municipal governments, to petitioners, to respondents, to agencies, and to the general public.

Assistance the LBC staff provides includes:

- Answering public, legislative, and other governmental inquiries relating to municipal government issues.
- Writing reports on petitions for the LBC.
- Drafting LBC decisions.
- Traveling to communities to conduct public meetings and answer questions about proposed local boundary changes.
- Drafting the LBC annual report to the Legislature.
- Developing and updating municipal incorporation or boundary change forms.
- Sending local boundary change forms and materials to interested persons.

⁶ AS 44.33.020(a)(1) provides that Commerce "shall (1) advise and assist local governments."

⁷ See AS 29.04.040, AS 29.05.080, AS 29.06.110, and AS 29.06.480 - 29.06.490; 3 AAC 110.530.

- Providing a link between the LBC and the public.
- Maintaining Alaska municipal incorporation and boundary records governments.
- Coordinating and scheduling LBC public meetings and hearings.
- Developing orientation materials and providing training for new LBC members.
- Maintaining and preserving LBC records in accordance with Alaska's public records laws.

The LBC staff contacts:

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Brent Williams: (907) 269-4559
brent.williams@alaska.gov

Brice Eningowuk: (907) 269-4587
brice.eningowuk@alaska.gov

SECTION III PETITION PROCEDURES

Procedures to establish and alter municipal boundaries and to reclassify cities are designed to ensure every proposal's reasonable and timely determination. The procedures are also intended to ensure that commission decisions are based on applying the standards to the facts. Procedures are as follows:

Preparing and Filing a Petition

The LBC staff offers technical assistance, information, and forms to prospective petitioners. When a petition is prepared, it is then submitted to staff for filing. The staff will then review the petition to identify any deficiencies in form and content. This can allow petitioners to correct the draft before it is either circulated for voter signatures or adopted by a municipal government. If the staff finds that the petition contains all the required information, DCEED accepts it for filing.

Public Notice and Public Review

Once a petition is accepted for filing, the staff arranges extensive public notice. This provides ample opportunity for public comment concerning the petition. Interested parties are given at least seven weeks to submit responsive briefs and comments supporting or opposing a petition. The petitioner is provided at least two weeks to file one brief replying to public comments and responsive briefs.

The petition can be filed either as a legislative review petition, or a local action petition. If the LBC approves a legislative review petition, it goes to the Legislature, which can disapprove it by a majority of both houses. This method is specifically provided for by article 10, section 12 of Alaska's constitution. If the LBC approves a local action petition, it typically goes to the voters for approval. But, under 3 AAC 110.590, expedited procedures for certain local action annexation petitions are available. This occurs only when the municipality already owns the property proposed for annexation, or if all the property owners and voters in the territory proposed for annexation petition the municipality's governing body. In those limited circumstances, an election is not held.

Analysis

Following the public comment period on the petition, the LBC staff analyzes the petition, written comments, briefs, and other materials. Both the petitioner and the staff can conduct public informational meetings. If the petition is to incorporate, the staff must hold at least one public meeting within the boundaries proposed for incorporation. When the staff finishes its analysis, it issues a preliminary report including a recommendation to the commission.

The preliminary report is available for public review and comment for a minimum of four weeks. After reviewing the comments, the LBC staff issues its final report.

The final report discusses comments received on the preliminary report, and notes any changes to the staff's recommendations to the commission. The final report must be issued at least three weeks prior to the LBC's public hearing. Commission members read and review the petition, written comments, responsive briefs, reply briefs, and the staff reports.

Public Hearings and LBC Decisional Meeting

Following extensive public notice, the LBC conducts at least one public hearing. Typically the hearing is in or near the boundaries of the proposed change. Parties may present sworn witnesses, and the public has the chance to comment. The commission may tour the subject area before the hearing.

While the LBC has up to 90 days after the hearing to hold a decisional meeting, it typically holds that meeting within a few days of the hearing. The decisional meeting is open to the public. At the decisional meeting the commission considers the written record, as well as the record of the hearing. While the commission is not obligated to follow the staff's recommendations, historically it has considered the staff's analyses and recommendations.

LBC decisions regarding petitions must have a reasonable basis. Both the commission's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must be reasonable.⁸ The LBC must proceed within its jurisdiction, conduct a fair hearing, and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the commission has not proceeded in the manner required by law, or if the evidence does not support its decision.

The LBC may act by:

- Approving the petition as presented.
- Amending the petition (e.g., expanding or contracting the proposed boundaries).
- Imposing conditions on approving the petition (e.g., requiring voter approval of a proposition authorizing levying taxes to ensure financial viability).
- Denying the petition.

⁸ See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if the decision has a reasonable basis.

Written Decision

Within 30 days of its decisional meeting, the LBC must adopt a written decision stating the basis for its decision. Copies of the decision are provided to the petitioner, respondents, and others who request them. At that point the decision becomes final, but any person may ask the LBC to reconsider its decision. Such requests must be filed within 18 days after the decision is mailed. The LBC may order reconsideration on its own motion. If the LBC does not act on a reconsideration request within 30 days of when the decision was mailed, the request is automatically denied.

Implementation of Decision

3 AAC 110.630(a) specifies conditions that must be met before a LBC final decision is effective. If the LBC approves a petition, the proposal is typically subject to approval by voters or disapproval by the Legislature, depending on whether it was filed as a local action petition, or a legislative review petition, respectively. A petition that has been approved by the commission takes effect upon satisfying any stipulations imposed by the commission. If an election was held, it must be certified by the director of elections or the appropriate municipal official. If all of 3 AAC 110.630(a)'s requirements have been met, the department shall issue a certificate describing the changed boundaries of the municipality.

SECTION IV MUNICIPAL GOVERNMENT OVERVIEW

Article 10, section 2 of the Constitution of the State of Alaska provides for two types of municipalities: Boroughs and cities. Article 10, section 2 also says that the state may delegate taxing powers only to organized boroughs and cities. Boroughs are regional municipalities and cities are community municipalities. Under AS 29.03.010, those Alaska regions not in an organized borough constitute a single unorganized borough.

Boroughs

Article 10, section 3 of Alaska's constitution states "[t]he entire State shall be divided into boroughs, organized or unorganized." Alaska law provides for the following classes of organized boroughs:

- Home rule: Unified and nonunified
- General: First class and second class

There are 11 home rule boroughs, making them the most popular form of organized borough. There are seven second class boroughs. There is only one first class borough, the Municipality of Skagway.

By law, every organized borough must exercise the following powers areawide:

- Public education
- Tax assessment and collection where municipal taxes are levied
- Planning
- Platting
- Regulation of land use

Home rule boroughs have charters (constitutions). Article X, section 11, of Alaska's constitution provides that home rule boroughs "may exercise all legislative powers not prohibited by law or by charter." AS 29.10.200 lists 61 specific limitations on home rule municipalities.

Alaska's unified home rule boroughs can have no city governments within them.⁹ When a unified municipality is formed, all city governments within the unified municipality are automatically dissolved. No city can ever form again as long as the borough remains a

⁹ A unified municipality is defined as a borough by 3 AAC 110.990(1). Article X, section 2 of Alaska's constitution recognizes only boroughs and cities as municipalities. Further, the Legislature treats unified municipalities as boroughs. For example, the statutes use the same standards for borough incorporation as they do for incorporation of a unified municipality (AS 29.05.031). By contrast, the Legislature has established separate standards for city incorporation (AS 29.05.011).

unified borough. Non-unified home rule boroughs may have cities within them.

There are four unified boroughs in Alaska:

- City and Borough of Juneau
- City and Borough of Sitka
- City and Borough of Wrangell
- Municipality of Anchorage

There are four other organized boroughs in Alaska that also have no city governments within them. They are the Bristol Bay Borough, the Haines Borough, the Municipality of Skagway, and the City and Borough of Yakutat. City governments can legally be formed in those boroughs.

General law boroughs (first and second class) are empowered exclusively by statutes. Still, statutes allow general law boroughs to assume a broad array of powers. First class boroughs have greater powers than second class boroughs. A principal distinction between a first class borough and a second class borough relates to how their powers are assumed. A first class borough may exercise by ordinance on a non-areawide basis (i.e., in the area of the borough outside cities) any power not prohibited by law. In contrast, voters must approve a second class borough's authority to exercise many non-areawide powers. Assemblies are the governing body of organized boroughs.

The legislature has deemed the area of the state not incorporated as a borough as a single unorganized borough.¹⁰ Over half of the state is located in the unorganized borough. Under Alaska's constitution, the legislature functions as the assembly in the unorganized borough.¹¹ The state provides services that an organized borough does, including education, planning and zoning. Cities, tribal governments, or community associations can provide community services in the unorganized borough. Community services can include water and power utilities, and road maintenance.

¹⁰ AS 29.03.010

¹¹ Article 10, section 6

Cities

There are three city government classifications:

- Home rule
- First class
- Second class

A city government's powers and duties vary both with its particular classification, and whether it is located within an organized borough. A fundamental distinction among city governments is that home rule cities in the unorganized borough must, and first class cities in the unorganized borough may, provide for education, planning, platting, and land use regulation. Second class cities are not permitted to exercise education powers.

Generally, first class cities have more powers than second class cities. Examples of differences between first and second class cities include taxing authority and the mayor's powers and duties. Further, a community must have at least 400 permanent residents to form a first class city.

A city in an organized borough may exercise planning, platting, and land use regulation if that authority is delegated by that organized borough. Second class cities in the unorganized borough are permitted, but not required, to exercise planning, platting, and land use regulation.

Unified home rule boroughs (4)

Municipality of Anchorage
 City and Borough of Juneau
 City and Borough of Sitka
 City and Borough of Wrangell

Non-unified home rule boroughs (7)

Denali Borough
 Haines Borough
 Lake and Peninsula Borough
 North Slope Borough
 Northwest Arctic Borough
 Petersburg Borough
 City and Borough of Yakutat

First class borough (1)

Municipality of Skagway

Second class boroughs (7)

Aleutians East Borough
 Bristol Bay Borough
 Fairbanks North Star Borough
 Kenai Peninsula Borough
 Ketchikan Gateway Borough
 Kodiak Island Borough
 Matanuska-Susitna Borough

Home rule cities (10)

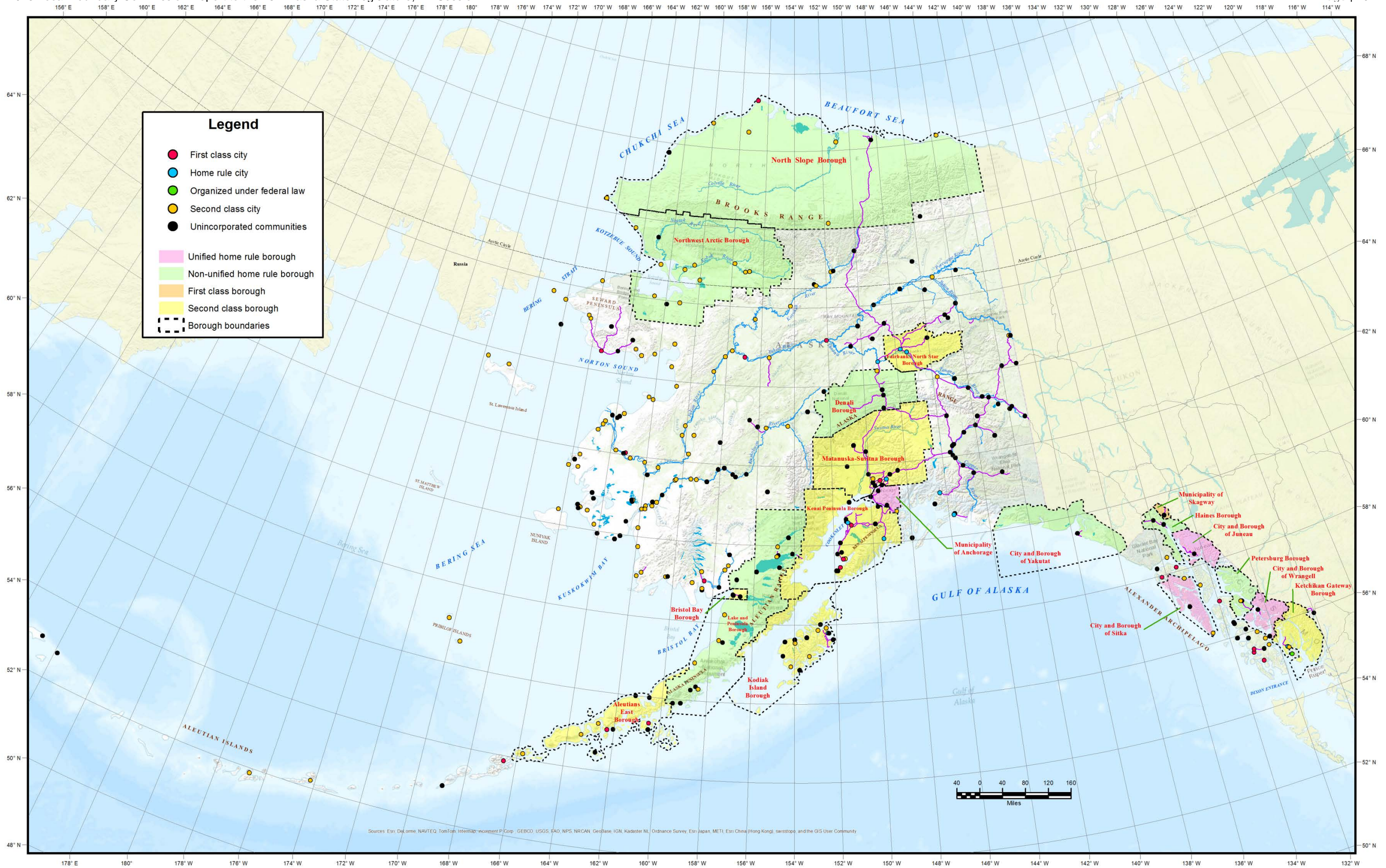
Cordova	Kodiak	Seward
Fairbanks	Nenana	Valdez
Kenai	North Pole	
Ketchikan	Palmer	

First class cities (19)

Barrow	Hoonah	Nome	Soldatna
Craig	Hydaburg	Pelican	Tanana
Dillingham	Kake	Saint Mary's	Unalaska
Galena	King Cove	Sand Point	Wasilla
Homer	Klawock	Seldovia	

Second class cities (114)

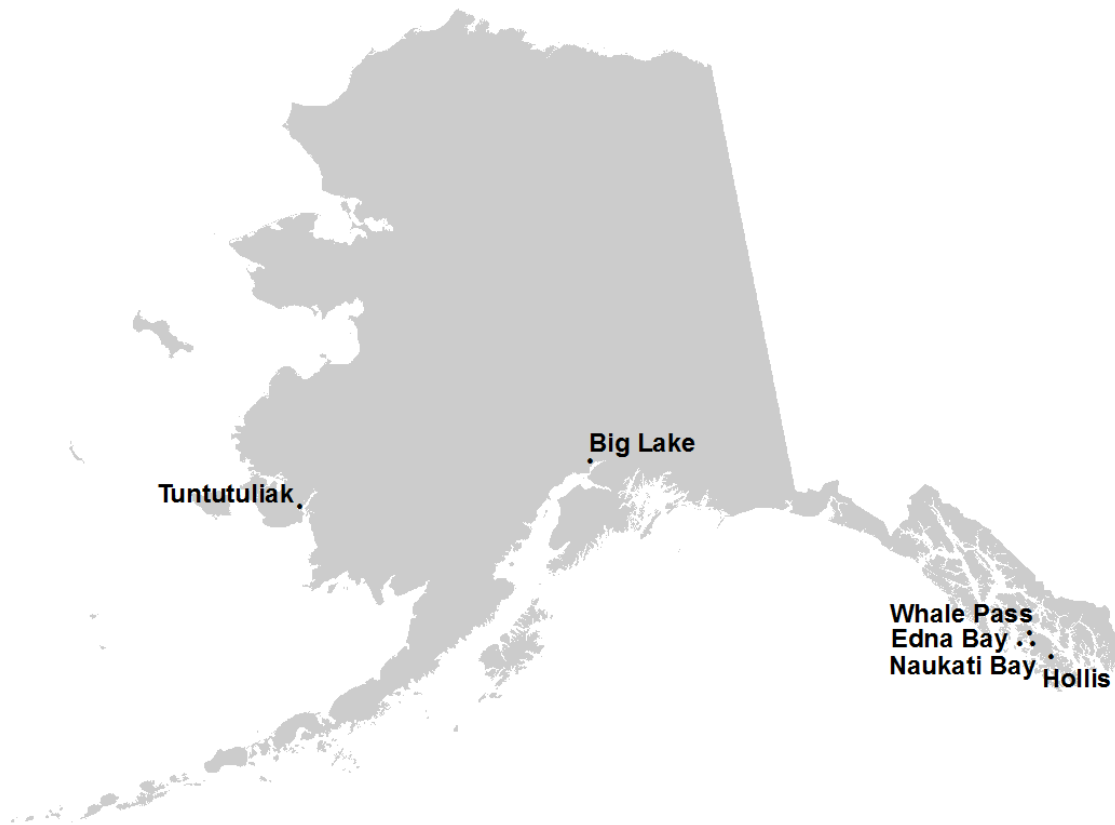
Adak	Eagle	Kupreanof	Port Lions
Akhiok	Eek	Kwethluk	Quinhagak
Akiak	Egegik	Larsen Bay	Ruby
Akutan	Ekwok	Lower Kalskag	Russian Mission
Alakanuk	Elim	Manokotak	Saint George
Aleknagik	Emmonak	Marshall	Saint Michael
Allakaket	False Pass	McGrath	Saint Paul
Ambler	Fort Yukon	Mekoryuk	Savoonga
Anaktuvak Pass	Gambell	Mountain Village	Saxman
Anderson	Golovin	Napakiaik	Scammon Bay
Angoon	Goodnews Bay	Napaskiak	Selawik
Aniak	Grayling	New Stuyahok	Shagaluk
Anvik	Gustavus	Newhalen	Shaktolik
Atka	Holy Cross	Nightmute	Shishmaref
Atkasuk	Hooper Bay	Nikolai	Shungnak
Bethel	Houston	Nondalton	Stebbins
Bettles	Hughes	Noorvik	Teller
Brevig Mission	Huslia	Nuiqsuit	Tenakee Springs
Buckland	Kachemak	Nulato	Thorne Bay
Chefornak	Kaktovik	Nunam Iqua	Togiak
Chevak	Kaltag	Nunapitchuk	Toksook Bay
Chignik	Kasaan	Old Harbor	Unalakleet
Chuathbaluk	Kiana	Ouzinkie	Upper Kalskag
Clark's Point	Kivalina	Pilot Point	Wainwright
Coffman Cove	Kobuk	Pilot Station	Wales
Cold Bay	Kotlik	Platinum	White Mountain
Deering	Kotzebue	Point Hope	Whittier
Delta Junction	Koyuk	Port Alexander	
Diomede	Koyukuk	Port Heiden	



CHAPTER 2 ACTIVITIES AND DEVELOPMENTS

SECTION I CITY INCORPORATION

- Big Lake
- Edna Bay
- Hollis
- Naukati Bay
- Tuntutuliak
- Whale Pass



Big Lake

Location:	Big Lake is a community on the shore of Big Lake, in the Chugach Mountains. It lies 13 miles southwest of Wasilla, and is adjacent to Houston and Knik-Fairview. Early inhabitants were the Dena'ina Athabascans. Lower housing costs and the semi-rural lifestyle have supported growth in the Matanuska-Susitna Valley.
Population:	3,502 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Matanuska-Susitna Borough

Big Lake residents inquired about incorporating as a second class city using the local option method. Staff sent information and answered questions. The proposed city encompasses 113.32 square miles. In October, the petitioners' representatives visited the LBC staff and submitted a petition to incorporate Big Lake.

Edna Bay

Location:	Edna Bay is located on the southeast coast of Kosciusko Island, northwest of Prince of Wales Island. It lies 90 miles northwest of Ketchikan.
Population:	39 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Unorganized borough

Edna Bay submitted a petition to incorporate as a second class city. It used the local option method, which requires an election if the LBC approves the petition. The proposed city consists of 27.5 square miles. The petition was accepted for filing in September. On October 10, LBC staff held a public informational meeting in Edna Bay concerning the community's petition. About 40 percent of the community attended. Questions from community members were answered by LBC and other DCRA staff at the meeting or by email afterwards.

Hollis

Location:	Hollis is located on the east side of Prince of Wales Island on Twelvemile Arm, 19 miles east of Craig by road, and 35 miles west of Ketchikan by water. The area was permanently settled in recent years through a state land disposal sale. Hollis is a community that provides support for logging operations, and is also a terminus for Alaska's Inter-island Ferry Authority service to Ketchikan.
Population:	109 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Unorganized borough

A Hollis community council member requested and received a city incorporation petition form and supporting documents. Staff volunteered to perform an informal technical review to ensure that any draft petition is ready for voter signatures.

Naukati Bay

Location:	Naukati Bay is located on the west coast of Prince of Wales Island in Southeast Alaska. It was a logging camp at one time, but was later settled as a Department of Natural Resources land disposal site.
Population:	115 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Unorganized borough

Naukati Bay had petitioned to incorporate as a second class city in 2004. In considering the best interests of the state, the LBC had made incorporation contingent on voters approving propositions authorizing the proposed city to levy a five percent sales tax and

a 3.5 mill property tax. The voters approved neither the propositions nor the incorporation.

Recently, residents have again been interested in incorporating Naukati Bay as a second class city. They have formed a committee to address the petition process. Per a Naukati Bay resident's request for incorporation materials, staff provided a petition form and related documents.

Tuntutuliak

Location:	Tuntutuliak is on the Qinaq River, approximately three miles from its confluence with the Kuskokwim River and about 40 miles from the Bering Sea. Tuntutuliak is a traditional Yupiaq village with a fishing and subsistence lifestyle. Salmon and seal are important food sources. Children are taught in Yup'ik until the third grade, and then classes are taught in English.
Population:	420 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Unorganized borough

A Tuntutuliak community council member contacted the LBC regarding incorporating Tuntutuliak as a second class city. Staff provided a petition form and supporting documents. Staff also suggested that he visit the LBC website to review current and past petitions as examples.

Whale Pass

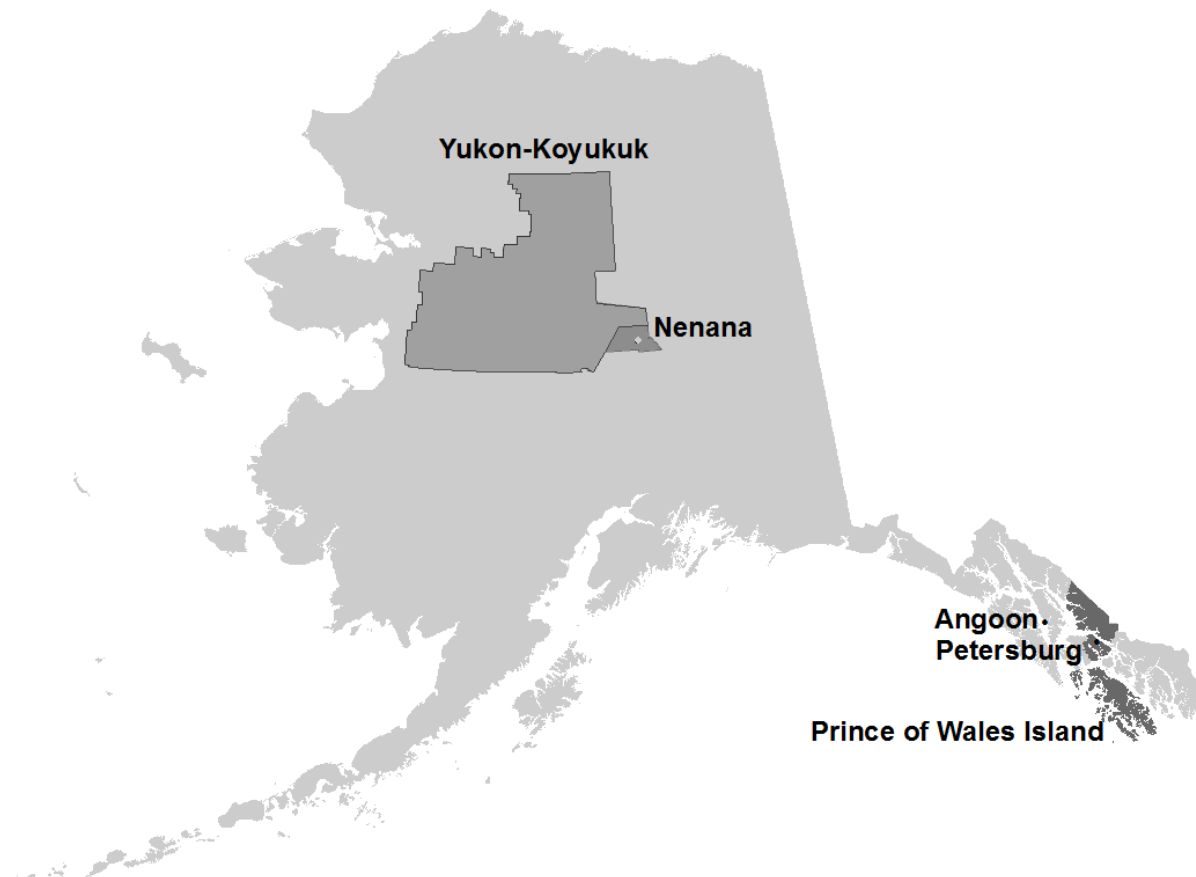
Location:	Whale Pass lies on the northeast coast of Prince of Wales Island. Many Whale Pass residents are homesteaders who enjoy a subsistence lifestyle.
Population:	39 (2012 Alaska Department of Labor estimate)
Classification:	Unincorporated
Borough:	Unorganized borough

The Whale Pass Homeowner's Association board is considering Whale Pass petitioning to become a second class city. Staff provided information about city incorporation, including a petition form, statutes and regulations, and related documents.

A number of communities on Prince of Wales have inquired about incorporating as second class cities. These inquiries are potentially in response to the Prince of Wales Island borough feasibility study that the City of Craig commissioned.

SECTION II BOROUGH INCORPORATION

- Angoon
- Nenana
- Petersburg
- Prince of Wales Island
- Yukon-Koyukuk



Angoon

Location:

Angoon is located on Kootznahoo Inlet on Admiralty Island's southwest coast. It is the island's only permanent settlement. The city encompasses 22.5 square miles of land and 16.1 square miles of water. Angoon is a Tlingit village with a commercial fishing and subsistence lifestyle.

Population:

456 (2012 DCCED certified estimate)

Classification:

Second class city

Borough:

Unorganized borough

Kootznoowoo Corporation officials met with LBC staff to ask about forming a borough in the Angoon area. Staff answered their questions and provided a petition form and other materials.

Nenana

Location:	Nenana is located in interior Alaska. It is on the south bank of the Tanana River, just east of the mouth of the Nenana River. The population of Nenana is a diverse mixture of non-natives and Athabascans. Most residents participate in subsistence activities. Nenana residents have included Iditarod sled dog race competitors and former champions.
Population:	428 (2012 DCCED certified estimate)
Classification:	Home rule city
Borough:	Unorganized borough

The City of Nenana received a legislative grant in 2012 to conduct a borough feasibility study. Borough formation opponents submitted signatures to LBC staff from people averse to forming a borough. The consultant who wrote the study explored several different options including the status quo, two different borough formation options, and being part of either the Fairbanks North Star or Denali Boroughs. She scheduled community meetings to review and discuss the draft report and its key findings. No petition to either incorporate a borough in the Nenana area, or to annex that area, has been submitted.

Petersburg

Location:	The new Petersburg Borough is located between the City and Borough of Juneau and the City and Borough of Wrangell. The borough encompasses 3,829 square miles of land and water.
Population:	3,269 (2012 DCCED certified estimate)
Classification:	Non-unified home rule borough
Borough:	Petersburg Borough

In 2012 the LBC approved a petition to form a Petersburg borough and concurrently dissolve the then City of Petersburg. Late that year the voters of the proposed Petersburg Borough approved the borough incorporation and concurrent city dissolution. State law provides that incorporation would become effective once final preclearance was received from the U.S. Department of Justice (DOJ), and the election was certified. As DOJ preclearance had already been received, the borough formation and the city dissolution became effective on January 3 when the Division of Elections certified the election. The City and Borough of Juneau is appealing the LBC's decision to the Alaska Superior Court.

Prince of Wales Island

Location:	Prince of Wales Island is in the southeast region of Alaska. Its cities and unincorporated communities include Coffman Cove, Craig, Hollis, Hydaburg, Kasaan, Klawock, Naukati Bay, Point Baker, Port Protection, Thorne Bay, and Whale Pass.
Population:	5,571 (2012 Alaska Department of Labor estimate for the Prince of Wales-Hyder Census Area)
Classification:	Unincorporated borough
Borough:	Unorganized borough

Staff received various inquiries from different communities on Prince of Wales Island regarding incorporating a borough. Some residents wanted a borough that encompasses the entire island, while others wanted the island divided into separate boroughs of varying size. Some communities were interested in forming their own boroughs. Each contact was provided with information on borough incorporation, applicable state statutes and regulations, and a petition form if requested.

Yukon-Koyukuk

Location:	The Yukon-Koyukuk School District is in Interior Alaska on the Yukon, Koyukuk, and Tanana Rivers. It is a sparsely settled area larger than the state of Washington. It is a largely roadless area.
Population:	1600 (2013 LBC staff estimate)
Classification:	Rural Education Attendance Area (REAA)
Borough:	Unorganized borough

A Huslia resident asked about forming a borough in the Yukon-Koyukuk School District. The possible borough would consist of the communities along the Koyukuk River. Staff explained the petition process, and sent a borough incorporation petition form and the applicable standards. The community member also asked about obtaining a legislative grant to conduct a study on a borough formation.

SECTION III CITY ANNEXATION

- Allakaket
- Houston
- Kake
- Kodiak
- Kotzebue
- North Pole
- Togiak
- Wasilla



Allakaket

Location:

Allakaket is on the south bank of the Koyukuk River, southwest of its confluence with the Alatna River. Subsistence activities provide the majority of food sources. The village of Alatna is located directly across the river. Allakaket is mainly an Athabaskan community while Kobuk Eskimos live in Alatna. The city encompasses 4.3 square miles.

Population:

106 (2012 DCCED certified)

Classification:

Second class city

Borough:

Unorganized borough

In July, the City of Allakaket submitted a detachment and concurrent annexation petition using the local option method. The petition would remove territory near the neighboring community of Alatna and add territory to the north, northeast, and south of Allakaket's current boundaries. After Allakaket residents along the Koyukuk River were forced to

move following a 1994 flood, city and other infrastructure was built outside city boundaries. This land will be annexed to Allakaket if the LBC approves the petition. Staff returned the petition following technical review because more information was needed. In October, the City of Allakaket resubmitted its petition.

Houston

Location:	Houston is located along the Little Susitna River. It is on the George Parks Highway 18 miles northwest of Wasilla. Houston is a residential rural community that experiences consistent growth. The city consists of 23.5 square miles.
Population:	2012 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Matanuska–Susitna Borough

Houston city officials asked about the municipal annexation process. A native corporation owns land included within the proposed City of Big Lake. The corporation is concerned that some of its land will be inside Big Lake, and some outside. It approved a resolution requesting annexation into the City of Houston. Houston officials are considering whether to file an annexation petition.

Kake

Location:	Kake is located on the northwest coast of Kupreanof Island along Keku Strait, 95 miles southwest of Juneau. Kake is a Tlingit village with a fishing, logging, and subsistence lifestyle where traditional customs are important. The city encompasses 8.2 square miles of land and 6 square miles of water.
Population:	598 (2012 DCCED certified estimate)
Classification:	First class city
Borough:	Unorganized borough

The Kake city manager called to discuss Kake's interest in annexing some territory. Staff answered questions and provided city annexation standards and other information.

Kodiak

Location:	Kodiak is located near the northeastern tip of Kodiak Island. It is one of the three leading fishing ports in the United States. The city consists of 4.9 square miles.
Population:	6,431 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Kodiak Island Borough

The City of Kodiak is exploring annexing two parcels that are partly in the city limits. Staff sent the city annexation information, particularly concerning the local option by unanimous consent method.

Kotzebue

Location:	Kotzebue is 26 miles above the Arctic Circle on a three-mile long spit. The city comprises 28.7 square miles. This site has been occupied by Inupiat for at least 600 years. Subsistence activities are an integral part of their lifestyle. Each summer, the North Tent City fish camp is set up to dry and smoke the season's catch.
Population:	3,237 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Northwest Arctic Borough

Kotzebue is interested in annexing about 145 square miles of land. The purpose is to include in the city a future deep water port at Cape Blossom 10 miles south of Kotzebue, and an access road that is in the construction planning stages. Kotzebue's attorney provided staff with an annexation petition that uses the legislative review method. Per his request, staff provided an informal pre-technical review on the petition. A petition is expected to be formally submitted in late 2013.

North Pole

Location:	North Pole is in interior Alaska, 14 miles southeast of Fairbanks. The city was incorporated in 1953. Growth from Fairbanks and nearby Eielson Air Force Base has increased development over the years. Letters from children all over the world are mailed to North Pole at each year at Christmas.
Population:	2162 (2012 DCCED certified estimate)
Classification:	Home rule city
Borough:	Fairbanks North Star Borough

North Pole mayor Bryce Ward asked about the procedures necessary for his city to annex a large adjacent Army Corps of Engineers area. Staff sent him a petition form and the standards.

Togiak

Location:	Togiak is located at the head of Togiak Bay, 67 miles west of Dillingham. Togiak is a traditional Yup'ik Eskimo village with a fishing and subsistence lifestyle. The city encompasses 45.2 square miles of land and 183.3 square miles of water. Togiak was incorporated in 1969.
Population:	871 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Unincorporated borough

The mayor and administrator of Togiak contacted staff about the annexation process. Togiak is interested in annexing waters containing fishing grounds. Staff sent the city an annexation petition and further information.

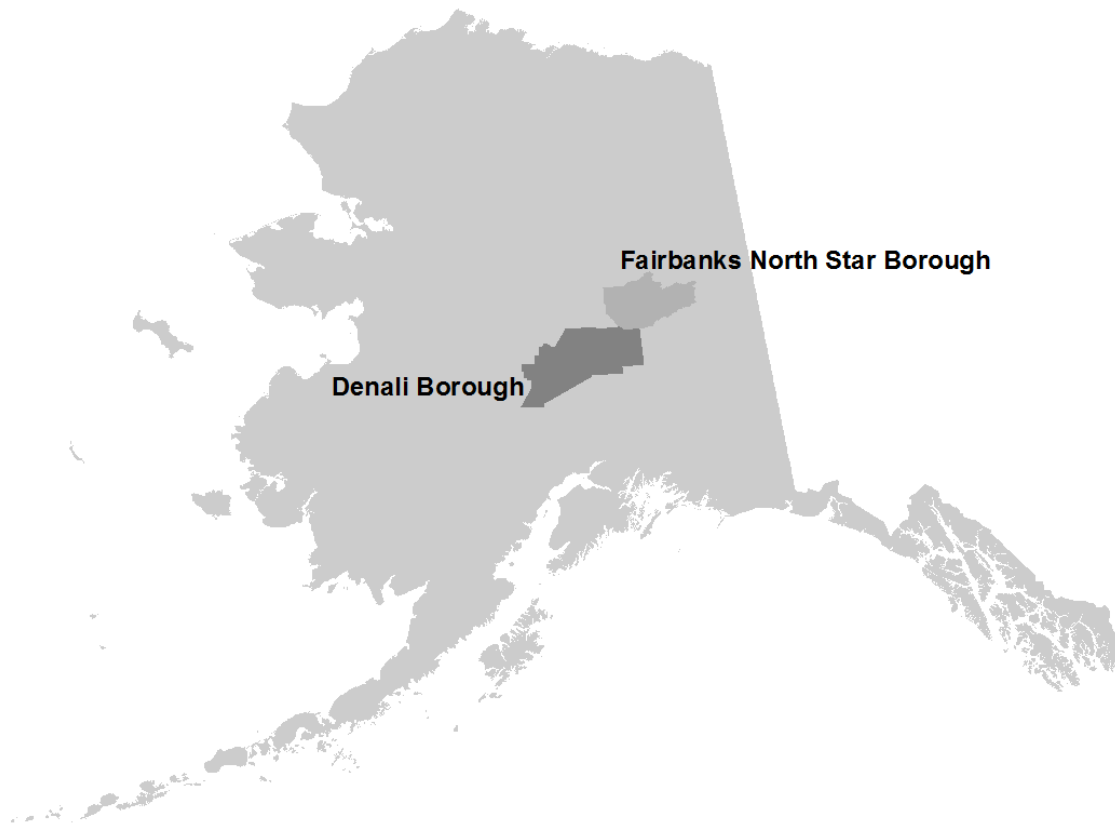
Wasilla

Location:	Wasilla is located midway between the Matanuska and Susitna Valleys. The city consists of 12.4 square miles. Wasilla incorporated in 1974.
Population:	8,207 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Matanuska–Susitna Borough

The owners of commercial property adjacent to Wasilla's city limits had requested the city to annex them. Wasilla then submitted a petition to annex approximately 77 acres of land and water, using the local option with unanimous consent method. It employed the expeditious procedures available for unanimous consent annexation petitions. After a hearing, the LBC found that the petition met the annexation standards and approved the petition.

SECTION IV BOROUGH ANNEXATION

- Denali Borough
- Fairbanks North Star Borough



Denali Borough

Location:	Denali Borough lies in Interior Alaska, between the Fairbanks North Star and Matanuska-Susitna Boroughs. Nearly all its residents live along the Parks Highway. Much of the borough is in Denali National Park, home to the highest mountain in North America. Denali Borough incorporated in December 1990, and comprises 12,774.6 square miles.
Population:	1,871 (2012 DCCED certified estimate)
Classification:	Non-unified home rule borough
Borough:	Denali Borough

The Denali Borough asked about a possible detachment of Ahtna Corporation land from the Matanuska-Susitna Borough and annexing that land into the Denali Borough. Staff provided information about the petition procedures.

Fairbanks North Star Borough

Location:	The Fairbanks North Star Borough is located in the heart of Interior Alaska. It encompasses 7,438.8 square miles.
Population:	100,343 (2012 DCCED certified estimate)
Classification:	Second class borough
Borough:	Fairbanks North Star Borough

The Fairbanks North Star Borough attorney asked the LBC staff about the borough annexation process. The borough is interested in using the legislative review method. Staff sent the borough an annexation petition form.

SECTION V MUNICIPAL MERGER

- Whittier



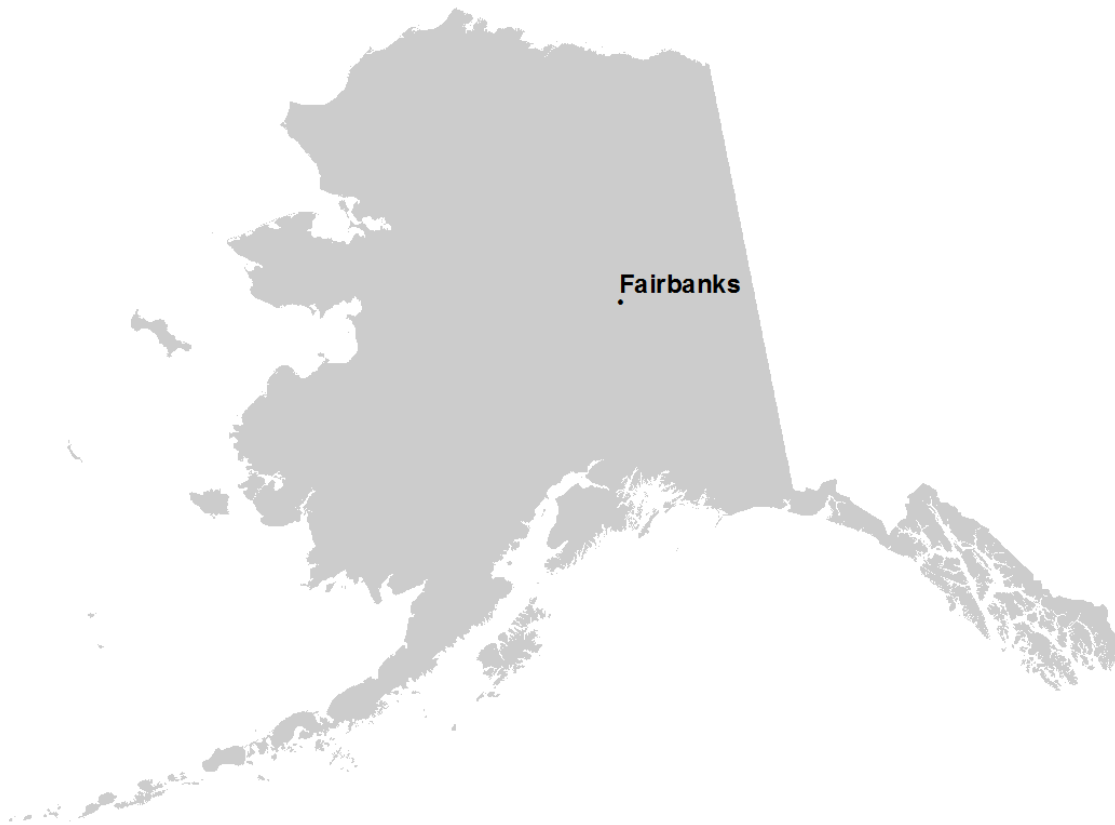
Whittier

Location:	Whittier is on the northeast shore of the Kenai Peninsula, on the west side of Prince William Sound. The city consists of 19.7 square miles. Whittier incorporated in 1969. Residents enjoy sport-fishing, commercial fishing, and subsistence activities.
Population:	227 (2012 DCCED certified estimate)
Classification:	Second class city
Borough:	Unorganized borough

A Whittier business owner's representative requested information regarding how Whittier can merge, consolidate, or be annexed into an existing municipality. Staff met with him, and discussed the differences in those options. Staff sent him the applicable statutes and regulations

SECTION VI CITY DETACHMENT

- Fairbanks



Fairbanks

Location:	Fairbanks is located in the heart of Alaska's Interior, on the banks of the Chena River in the Tanana Valley. It comprises 33.2 square miles. Fairbanks is Alaska's most populous city. The greater Fairbanks area is Alaska's second most populous urban area.
Population:	32,070 (2012 DCCED certified estimate)
Classification:	Home rule city
Borough:	Fairbanks North Star Borough

The Fairbanks mayor's chief of staff visited to discuss the city's detachment petition, currently in technical review. The city has petitioned to detach 48.5 acres of territory containing three lots and part of a neighboring state roadway. The lots are the site of a self-service storage facility.

SECTION VII CITY RECLASSIFICATION

- Pelican



Pelican

Location:	Pelican is located on the northwest coast of Chichagof Island on Lisianski Inlet. A boardwalk serves as the town's main thoroughfare. There is a seasonal influx of commercial fishermen and residents. Pelican provides important services to the fishing fleet, including ice machines.
Population:	82 (2102 DCCED certified estimate)
Classification:	First class city
Borough:	Unorganized borough

Some residents and the city itself are exploring reclassifying to a second class city, due to a declining population. Per their requests, those parties were sent a reclassification petition and standards. By statute, reclassification petitions must also address the requirements for incorporation. As a first class city in the unorganized borough, Pelican operates and pays for its own school system.

SECTION VIII GENERAL REQUESTS AND ACTIVITIES

LBC staff handled dozens of requests during 2013 that did not concern proposed local boundary changes. They included requests for: City incorporation history; present city boundaries; present borough boundaries; a list of all boroughs and communities in Alaska; information about the required local contribution for education funding; LBC records; municipal land entitlement; municipal certificates; publications and maps; LBC minutes and transcripts; and other related information. There were also questions about: Past petitions; the commission's website; LBC regulations; granting easements to communities; municipal services; petition procedures; legislative grants for borough studies; and other subjects.

These requests and questions came from Alaskan citizens, legislative offices, the media, and municipal, state, and federal officials. Staff answered questions efficiently, accurately, and courteously. If the requests were outside of the LBC's purview, staff referred the person to the proper agency for assistance.

Staff attended the Alaska Department of Law's "Regulations Class for State Agencies." The course discussed what a regulation is and how a regulation is tied to state statutes. The class also summarized how to submit regulation changes that meet Department of Law requirements.

SECTION IX LOCAL BOUNDARY COMMISSION ACTIVITIES

LBC Public Meetings

February 13, 2013: The LBC held a public meeting to approve its 2012 annual report to the Legislature, to approve previous LBC meeting minutes, and to decide other LBC matters. All the commissioners were present via teleconference. All agenda items were unanimously approved. The report was sent to the legislature on February 19.

April 17, 2013: The LBC met to discuss what the Alaska constitutional framers intended for local governments and what role the framers intended for the commission. The LBC holds meetings like this every few years to discuss its constitutional mandate, and to determine how the commission is adhering to the constitutional framers' vision. The commission discussed how to encourage borough formation, simplifying the petition process (particularly for petitions that don't have much opposition), and related local boundary topics. Dr. Vic Fischer, former LBC staff supervisor Dan Bockhorst, former commission chair C.B. Bettisworth, and former LBC counsel Margie Vandor also participated. It was an informative and productive meeting.

The commission also elected Bob Harcharek vice chair, and approved a resolution thanking former commissioner Larry Semmens for his significant contributions as an LBC member. All of the agenda items were unanimously approved by the LBC.

September 12, 2013: The LBC held a public hearing by teleconference in Anchorage for the Wasilla annexation petition. The petitioners spoke briefly. There were no public comments at the hearing. The commission held the decisional meeting immediately following the hearing. After carefully considering all the evidence, the LBC voted 4 yes with 1 absent to approve the petition (as amended by the commission to make a minor correction to the petition's metes and bounds).

The LBC also discussed a resolution urging the state to fully fund the cost of basic need for all school districts, instead of requiring a local contribution from municipalities.¹² It further welcomed back Darroll Hargraves to the commission, welcomed new LBC staff member Brice Eningowuk, and conducted other commission business. All agenda items were approved by the LBC.

October 3, 2013: The LBC held a public meeting by teleconference in Anchorage. It approved the written decision for the Wasilla annexation petition. The commission also discussed a resolution urging full state funding of basic need for all school districts, and conducted other business.

¹² AS 14.17.410(a)(1) states that "[p]ublic school funding consist of state aid [and] a required local contribution."

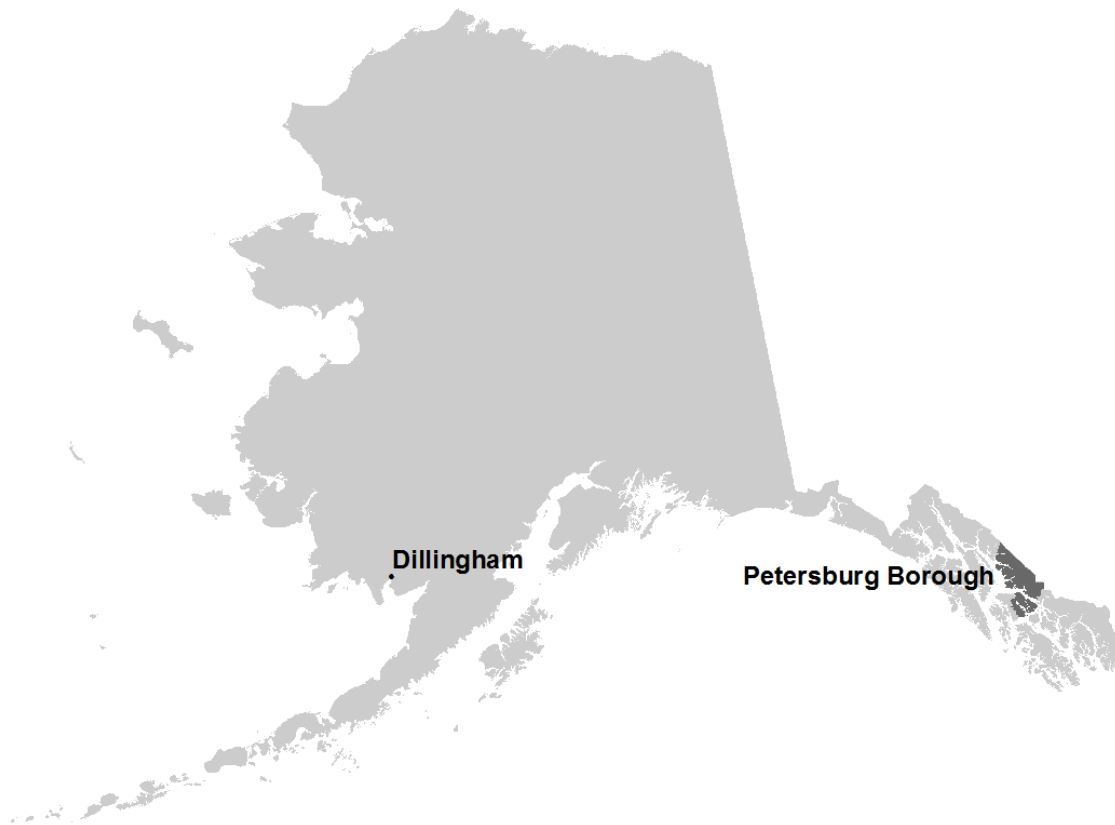
LBC Member Reappointments Appointments

On June 1, Governor Parnell appointed Darroll Hargraves of Wasilla to the Local Boundary Commission as the member from the Third Judicial District, succeeding Larry Semmens. Commissioner Hargraves has extensive LBC experience due to his 11 years on the commission, including serving as chair. His term ends on January 31, 2017.

On April 22, Governor Parnell reappointed Lynn Chrystal of Valdez as chair of the Local Boundary Commission. His term expires on January 31, 2018.

SECTION X LITIGATION UPDATE

- City of Dillingham
- Petersburg Borough



Native Village of Ekuk v. Local Boundary Commission and City of Dillingham (Case No. 3DI-12-00022 CI)

The Native Village of Ekuk is appealing the Local Boundary Commission's 2011 approval of Dillingham's petition to annex Nushagak Bay. On October 4, the hearing was held before the Alaska Superior Court in Dillingham. The court has not yet issued its ruling.

City and Borough of Juneau vs. State of Alaska, Local Boundary Commission, and Petitioners for Incorporation of the Petersburg Borough (Case No. 1JU-12-900 CI)

In 2012, the Local Boundary Commission approved the incorporation of the Petersburg Borough. The incorporation took effect in 2013. The City and Borough of Juneau is appealing the LBC's decision to the Alaska Superior Court. The hearing for the appeal was held on September 4 in Juneau. The court has not yet issued its ruling.

U.S. Supreme Court Decision

The U.S. Supreme Court issued a ruling that invalidated part of the Voting Rights Act of 1965. Formerly, if the LBC approved a petition, the boundary change could not go into effect until the U.S. Department of Justice had precleared it to make sure that it did not adversely impact minority voting rights. That preclearance is no longer required.

CHAPTER 3 SUMMARY AND CONCLUSION

In April the Local Boundary Commission met with distinguished guests to discuss what the Alaska constitutional framers intended for local governments and what role the framers intended for the commission. Scholars, citizens, public servants, and others discussed the LBC's constitutional mandate and how the commission is adhering to the framers' vision.

In September the commission considered a petition from the City of Wasilla to annex territory. It found that the petition met the standards and approved it. The decision made by the LBC provides the annexed territory with maximum local self-government.

The LBC staff visited Edna Bay in October to hold a required public informational meeting about the proposed incorporation. About 40 percent of the community attended. Questions from community members were answered by LBC and other DCRA staff at the meeting or by email afterwards.

The staff spent the majority of its time assisting Alaska residents by answering questions about possible local boundary changes, and providing petition forms and other information. The questions were answered efficiently, accurately, and courteously. Even though most inquiries did not result in a petition being submitted to date, the information provided is still appreciated by the citizens and their communities.

The LBC staff worked hard to make petition forms much shorter and more user friendly. Partly as a result, more petitions are expected to be submitted in 2014.

Petitions expected to be before the LBC in 2014 include an annexation petition from the City of Kotzebue, a petition to detach land from the City of Fairbanks, a petition to concurrently detach from and annex to Allakaket, a petition to incorporate Edna Bay as a second class city, and an annexation petition from the City of Houston.

In conclusion, the LBC is pleased to continue serving the people of Alaska by fulfilling its constitutionally-mandated authority to consider any proposed local government boundary change. The staff is pleased to continue providing assistance to the public and potential petitioners.

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