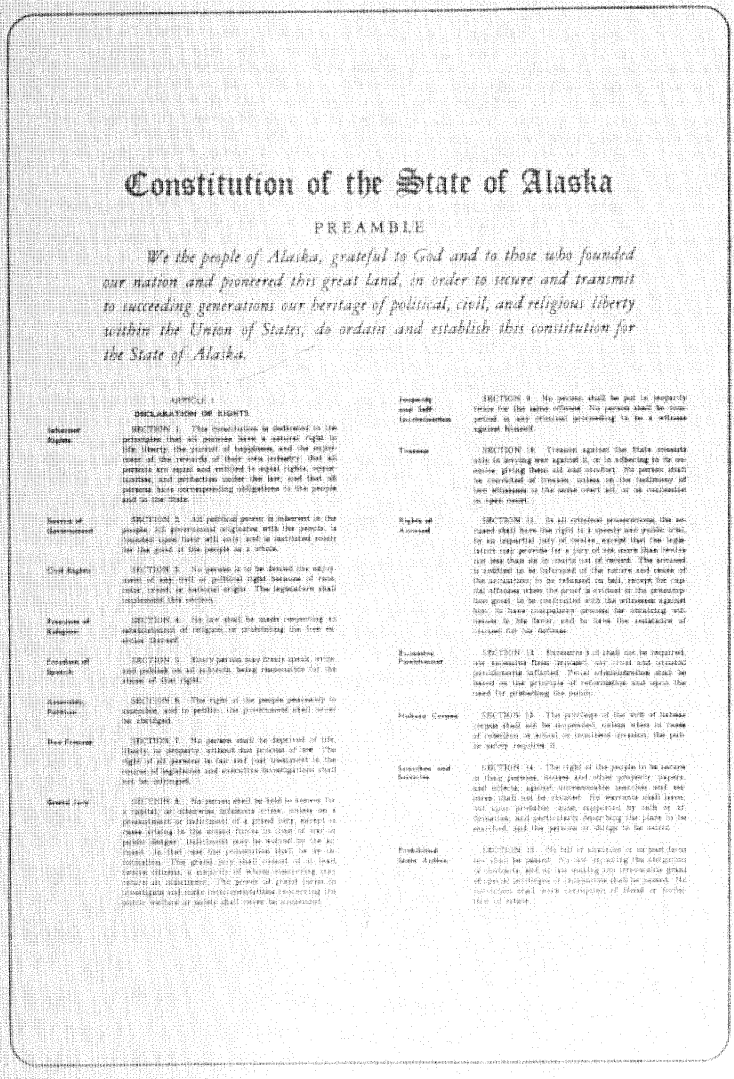
A Study of
State-Local
Relations

BOROUGH GOVERNMENT IN ALASKA



Constitution of the State of Alaska

PREAMBLE

We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States, do ordain and establish this constitution for the State of Alaska.

ARTICLE 1

DECLARATION OF RIGHTS

Inherent Rights

SECTION 1. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Source of Government

SECTION 2. 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.

Civil Rights

SECTION 3. No person is to be denied the enjoyment of any civil or political right because of race, color, creed, or national origin. The legislature shall implement this section.

Freedom of Religion

SECTION 4. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

Freedom of Speech

SECTION 5. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

Assembly, Petition

SECTION 6. The right of the people peaceably to assemble, and to petition the government shall never be abridged.

Due Process

SECTION 7. No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

Grand Jury

SECTION 8. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused. In that case the prosecution shall be by information. The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return an indictment. The power of grand jury to investigate and make recommendations concerning the public welfare or safety shall never be suspended.

Jeopardy and Self-Incrimination

SECTION 9. No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

Treason

SECTION 10. Treason against the State consists only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Rights of Accused

SECTION 11. In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Excessive Punishment

SECTION 12. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Penal administration shall be based on the principle of reformation and upon the need for protecting the public.

Habeas Corpus

SECTION 13. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or actual or imminent invasion, the public safety requires it.

Searches and Seizures

SECTION 14. The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Prohibited State Action

SECTION 15. No bill of attainder or ex post facto law shall be passed. No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. No restriction shall work corruption of blood or forfeiture of estate.

by
Thomas A. Morehouse
and
Victor Fischer

Institute of Social, Economic and Government Research
1971
University of Alaska
Fairbanks Alaska

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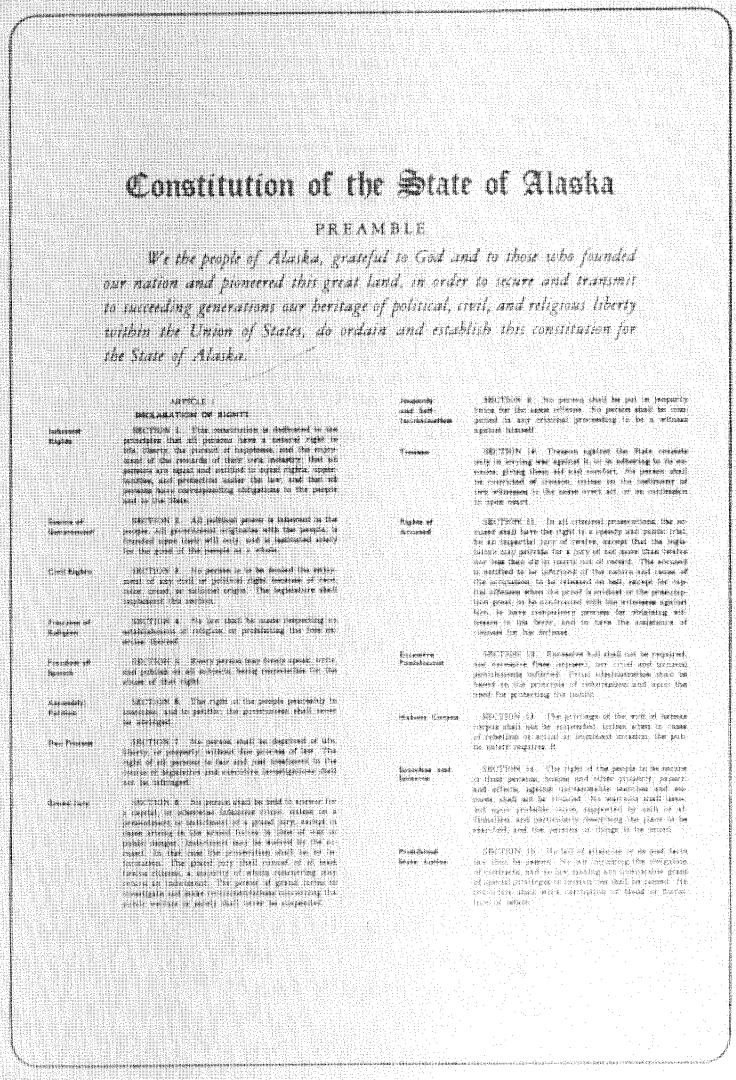

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PREFACE

The National Research Council's Committee on Social and Behavioral Research recently recommended that the U.S. Department of Housing and Urban Development support research projects in several areas of urban affairs, including the character of local governance.* The committee called for "studies of the advisability of transferring functions from one to another form of government and the ways different types of governments function in different social environments." In addition, the committee stated that "studies of [local government] reform efforts would provide a clearer sense of the ways in which political controversies are resolved and to the extent to which key decisions made at one point in history place limitations on the capacity of future leaders to bring about meaningful changes in the same area."

We believe that this study of the evolution of Alaska's local governmental system and of the state's role in regional and community development constitutes the type of case study suggested. While the study locale is Alaska, this analysis of local government reform may provide perspective and lessons to policy makers and to students of government elsewhere in the country.

The study focus is on borough government, the new areawide unit of local government created over the past ten years in accordance with provisions of Alaska's constitution. The borough is in part an Alaskan version of the ideal of unified metropolitan government pursued in other parts of the United States, particularly during the 1950's, when Alaska's system was designed and statehood achieved. The borough has also been described as a modern and idealized form of county government, far surpassing, at least in concept, what the county modernization movement in other states is currently striving for. The Alaska experience may be particularly pertinent and revealing in view of the idealistic beginnings and the newness of its local governmental system, and because of the rapidity with which traditional political and social forces began to thwart the objectives of the system. Compared to most of the United States, however, there is probably greater opportunity to reshape Alaska's system in

A Strategic Approach to Urban Research and Development (Washington, D.C.: National Academy of Sciences, 1969).

significant ways because of its relative simplicity and early stage of development. Interwoven with the analysis of boroughs is discussion of the responsibility of the state for local government in Alaska.

Many people helped in the preparation of this study. Numerous state and local officials gave of their time and knowledge in interviews and correspondence. Research assistance was provided in early stages of the study by Eleanor Hungate, Phyllis Perreault, James Rhode, and Patrick Rodey. William Hunt, Associate Professor of History, University of Alaska, contributed initial materials for sections of Chapter II on local government history.

Previous drafts of the study were reviewed by several persons whose comments contributed materially to its current shape. Special mention is due John E. Bebout, currently of the Institute of Urban Studies, University of Texas; Gordon S. Harrison, Assistant Professor of Political Science, University of Alaska; Wilda G. Hudson, Anchorage City Council and Borough Assembly member; John L. Rader, State Senator, Anchorage; Robert E. Sharp, Anchorage City Manager; George Sharrock, Chairman, Federal Field Committee for Development Planning in Alaska; and Arlon R. Tussing, Associate Professor of Economics, University of Alaska.

Special recognition is also due James D. Babb, Jr., Institute Editor, and Peggy Raybeck, who prepared the final manuscript.

Thomas A. Morehouse

Victor Fischer

University of Alaska
March 1971

Borough Government in Alaska

CHAPTER I.

INTRODUCTION

Twelve years ago, when Alaska became a state, it was viewed by many as the place where a new beginning could be made in realizing harmonious state-local relations and efficient areawide government. Taking their cue from the idealistic statehood movement, Alaskans were sure that they had the last chance to avoid the mistakes of the "older states," while achieving some of the major objectives laid down by frustrated reformers elsewhere. The last twelve years have shown that idealism, good intentions, and a "clean constitutional slate" were not sufficient conditions for success. In too many instances they failed at critical points to ask what local government should be, why it was needed, and how widely favored schemes could be adapted to the Alaska environment.

This study examines the origins, environmental setting and policy making process of establishing areawide borough government in Alaska. It also delves into the questions of borough roles and purposes that were not adequately formulated, let alone successfully answered, by the state as it set about creating this new form of government. Finally, with fuller understanding of what boroughs were thought to be, how they were created, and their current deficiences and environmental constraints, some suggestions are made concerning future directions of local government policy and state-local relations in Alaska.

Local Government Under Alaska's Constitution

A basic aim of the Alaska statehood movement was to free the territory from control by a remote federal government and absentee corporate interests. As perceived by residents of the Territory of Alaska, federal

agencies and fishing and mining industries were holding back Alaska's basic social and economic development, while exploiting its natural resources for short-term economic gains. Statehood would mean the capture of political control over the state's general development. When they finally achieved statehood in 1959, Alaskans believed that they could now create public institutions, laws, and policies that would better serve their own interests and needs. They envisaged their new state and local governments as tools of development and progress, as "models" for the nation.

The people of Alaska had already adopted, in 1956, what was regarded nationally as a model state constitution. In contrast to the previous pattern of territorial government, state executive power was concentrated in the office of the governor, and administrative functions were grouped by major purpose in a limited number of principal departments. The legislature was empowered to meet annually in sessions of unlimited length. These and related features of state government organization were intended not only to remedy fundamental structural deficiencies of the old territorial scheme, but also to distinguish Alaska from most of the other states, where executive power was widely dispersed, administrative structures were highly fragmented, and legislative powers were restricted by generally outmoded constitutions. A similar spirit of idealism and faith in structural reform underlay the constitution's provisions for local government.

By the mid-1950's, when Alaska's constitution was written, it was generally agreed among students of local government of the United States that the traditional pattern of counties, cities, and towns was inadequate to accommodate the needs of a growing and urbanizing country. The county was viewed as an archaic carry-over from an earlier day, its size fashioned to the horse and buggy age, its functions geared to an earlier rural society. The city no longer defined the urban community either physically or socio-economically. Residential, commercial, and industrial growth had overspilled municipal boundaries and was accelerating at the same time that the cities' annexation of adjacent areas had come to a virtual standstill in many areas of the United States. Existing local jurisdictions seemed incapable of dealing with the pressures for facilities and services arising from metropolitan growth. The result was a proliferation of special purpose, limited function districts, each with its own constituency and financial base.

Those who wrote the local government article of Alaska's constitution generally believed that Alaska, too, would eventually have substantial urban areas and that with continued growth would come increasing sophistication in local affairs. But the delegates to the Constitutional Convention also had to face the obvious contemporary fact that Alaska's urban settlements were for the most part very small, few in number, and far between. The delegates, therefore, sought a concept of local government organization that might serve both urban and rural areas, both as they existed then and as they might become in the future.

The result of their deliberations was a local government article "designed to nurture a simple, flexible system of local self-government and avoid major errors of the older states in the development and maintenance of local institutions."[1] Its purpose was "to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions."[2]

The key provisions of the article mandated a new form of areawide general government called the "borough"; existing cities would be integral parts of boroughs, and the result would be a unified local governmental system. Alaska would thus avoid the proliferation of overlapping special districts, municipalities, and counties that have made urban areas nearly ungovernable in most of the rest of the country. Although the constitution contained the most liberal home rule provision in the nation, there were explicit requirements for the exercise of state authority in controlling and guiding local affairs. A boundary commission would have jurisdiction over all matters of local boundary change, and could itself propose and make changes subject only to legislative veto. In addition, a state-level local government agency would give continuing attention to the development of the local governmental system, and facilitate intelligent state legislative and administrative response to change. These constitutional provisions gave expression to what many considered to be the best current thinking and applied scholarship in the field of local government and state-local relations.

[1]Public Administration Service, *Local Government Under the Alaska Constitution*, by John E. Bebout (Chicago, 1959), p. ix.

[2]*The Constitution of the State of Alaska*, Article X, Section 1. See Appendix A below for the full text of the local government article.

As they set about to establish a new local governmental system, then, Alaskans appeared to be making all the right moves. Yet, it is now apparent that the system has not worked as intended.

The Borough

At the center of Alaska's local governmental scheme was the borough. As a vehicle for unifying local legislative and executive authority, and for coordinating the administration of state and local functions, borough government was Alaska's attempt to reach "at one stride a goal that local government reformers and specialists have been striving to attain in many states over a period of several generations."[3]

The borough was intended to serve as an all-purpose instrument of local government.[4] It was to encompass a "natural" social, economic, and political community, and serve both urban and rural needs; it was to be primarily responsible for functions best carried out on an areawide, rather than a limited community, basis; and it was to be highly adaptable, changing its shape and powers in response to the population and economic growth of an area.

In urban regions, boroughs could be intermediate levels of government, encompassing one or more cities, their urbanized fringes, and a rural hinterland. In more sparsely settled regions, they could be the sole unit of local government serving the population of the area. For those extensive regions of the state in which social, economic, and political resources could not yet sustain a viable system of local self-government, boroughs would remain "unorganized" and the state government would provide for their needs directly, or through whatever local instrumentalities were deemed appropriate.

[3]Public Administration Service, *Constitution Studies*, prepared on behalf of the Alaska Statehood Committee for the Alaska Constitutional Convention, November 1955 (mimeo.), Vol. III, p. 60.

[4]Chapter III below discusses in detail the concept of the borough and the local government deliberations of the Constitutional Convention of 1955-56.

Although cities would continue to exist, they were expected to be "integral parts" of boroughs and, between them, boroughs and cities would exercise all local government powers in the state. Special districts, including school districts and public utility districts, would be absorbed into these two constitutional forms of local government. While elective school boards would remain in existence, they would be under the general budgetary control of borough governing bodies.

The state was to assume a continuing responsiblity for the overall design and performance of the borough-city structure. Specifically for this purpose, two new state agencies were mandated by the constitution: a Local Boundary Commission and a Local Affairs Agency. The Boundary Commission would assure that borough and city boundaries were properly aligned in the first instance and subsequently responsive to changing needs and conditions. The commission was thus authorized by the constitution to "consider any proposed local government boundary change," and, subject to legislative veto, it could order such changes. The Local Affairs Agency, on the other hand, would broadly advise and assist boroughs and cities and exercise state overview of local governments.

Instead of being the focus of a unified and adaptable local governmental system, however, the borough has occasioned persistent political conflict, and its governmental role has for the most part been minor. There was, in the first place, widespread local opposition to the creation of boroughs during the initial years after statehood. They would bring new and unwanted governmental controls and taxes to rural areas lying outside of any local jurisdiction, areas that were already receiving basic educational, road maintenance, and police protection services directly from the state. The boroughs, moreover, would overlap existing cities, and were therefore viewed as threats to city autonomy and as competitors for funds, functions, and territory. There was a similar problem with the existing school districts, where school boards and school administrative organizations resisted borough controls over their local public education programs.

In view of such lack of enthusiasm for a new local structure, the state legislature in 1963 forced the incorporation of boroughs after empowering

them to perform only very limited local functions, by far the most important being education. The immediate purpose of bringing the local governmental system into legal conformance with the constitution was served, but the political costs of this action, and of the events that led to it, were high. Borough officials have had to struggle with city and school officials for control of even the few functions that were assigned to them by law, as well as for control of additional functions they have assumed piecemeal. In doing so, borough officials have often been looked upon as instigators of conflict who are attempting to take functions away from city and school organizations that preceded them on the local scene. It has also appeared that they are seeking to extend their services, controls, and powers of taxation to rural areas where many residents continue to oppose them. At the same time, there are others, who, wanting increased borough powers and higher levels of service from them, see borough government in its present form as much too weak and limited. Thus, the borough is faulted at the same time for being too much government and too little government. Neither supporters nor opponents are satisfied.

Continuing dissatisfaction with borough government has recently given rise to the borough-city "unification" movement. Essentially, unification means the elimination of competing borough and city governments in an urban area and their reconstruction as a single areawide unit of local government—an objective originally contemplated, but not actually specified, by the constitution writers. But proposals for change in an existing system, particularly for change as apparently thoroughgoing as that associated with unification, inevitably are seen by the governmental and private interests affected either as threats to their existing positions or as opportunities for gaining advantage. Thus, while the unification movement has generally been led by individuals and groups seeking more active as well as more efficient local government, others see unification as a means of reducing local government activities and lowering costs. Despite the potential importance of these new developments, this study deals primarily with the concept and practice of borough government during the years since statehood, rather than with the unification movement as it has so far taken shape in some of Alaska's urban areas. An obvious reason for this is that the unification movement is very recent as an organized phenomenon, and most of the research for this study was completed before significant observable

effects of unification emerged. Yet, it is already apparent that unification in large part consists of a replay in new form of older conflicts associated with the establishment and operation of boroughs during the whole statehood period. Discussion of the background and experience of borough government should, therefore, shed light on current developments and place them in perspective.

Purposes of the Study

It was at first thought that this study might focus narrowly on the division of responsibilities for urban development functions between state and local government in Alaska, and somewhat more broadly on intergovernmental community development programs. While it was generally recognized that the constitutional structure for local government and state-local relations was not working as intended, there was relatively little knowledge of precisely in what ways it was "not working," and why. As the study proceeded, it became increasingly clear that the problem was not simply one of the division of urban functions or of state organization and programs; it was much more fundamentally one of defining purposes of local government and the state's responsibility for assisting in their achievement. We found, in essence, that the work begun by the Alaska Constitutional Convention had never been completed, or even continued.

A prime purpose of this study is to determine how and why this happened. Toward this end, we attempt to present objective description and analysis of historical events and of the environment in which they took place. Another major purpose is to suggest ways in which the state might deal constructively with the problem. We therefore venture general prescriptions whose utility will depend upon the quality of political judgment and practical wisdom that policy makers themselves must exercise in re-thinking the problem and deciding on specific courses of action. As has been observed elsewhere:

> The approach is not a mere matter of expertise. The expert in state and local government can advise and assist by explaining the meaning of terms or practices that exist elsewhere or by illustrating pitfalls or advantages implicit in specific proposals. But he cannot put the question of what to do in a jeweller's scales and give a precise reading of their relative weights.[5]

Because the values, beliefs, attitudes, and behavior underpinning a constitution and giving it practical meaning and effect are constantly changing, a constitution is never "completed" in any final sense. Even well formulated constitutional provisions and intentions must be translated into explicit laws and policies before they can be considered operational, i.e., practical guides for action. The necessary steps of translation were not accomplished in Alaska. Instead, means to establish the local governmental system—laws and administrative policies and procedures—were improvised in the absence of agreements on the ends to be served, for the meaning of the local government article of the constitution remained very abstract, even ambiguous. A major gap thus existed between constitutional purpose and intent, themselves very elusive and problematical, and the actual process of creating new structures of government and restructuring and eliminating old ones.

Assuming that governmental structures and assignments of functions should follow from, rather than precede, clear understandings of governmental purposes and intergovernmental relationships, the focus of the study shifted. Now the questions were: what is a borough? how does it fit into Alaska's general governmental system? what functions can and should boroughs serve? and what is the state's responsibility with respect to the borough and the system generally? As noted, none of these questions was answered satisfactorily before the legislature required the incorporation of boroughs in 1963.

[5]Duane Lockard, *The Politics of State and Local Government* (2nd ed.; New York: The MacMillan Co., 1969), p. 58.

The borough problem thus emerged as a particularly appropriate focus for a study of local government and state-local relations in Alaska, a study that might carry useful lessons for other states as well as Alaska. First, the borough was to be the keystone of the new local government arch that only Alaska, among the states, appeared to have the opportunity to build. Here was a new state, vast in size, small in population, with few cities, a handful of special districts, and no counties; as depicted in 1959, a state whose "local government picture . . .is relatively uncluttered and free of features which cannot readily be recast to fit the requirements of a dynamic future."[6] Alaska apparently had the chance to plan and build a new local governmental system virtually from the ground up; it would not be forced, as were the older states, to settle for incremental reform and marginal adjustments in a large number of established, change-resistant structures.

Second, the structures and functions of boroughs would depend directly on clear definitions of their basic roles and purposes within the larger intergovernmental system. These were relatively open questions, and some effort had to be made to answer them either explicitly or implicitly before boroughs were actually established. In addition, the borough was intended to be an "intermediate" level of government between the cities and the state. A major question here was whether the borough was to be a *regional* government, an *urban area* government, or some combination of both. Thus, any practicable definition of the borough role would require attention to redefining the roles of cities and the state. The actual process of drawing boundaries, establishing structures, and assigning functions would then need to reflect understandings and agreements about all of these matters.

Third, study of the borough problem could link Alaska's experience to developments elsewhere in the country, where states were involved in their own forms of areawide governmental organization or reorganization problems. That is, in a very general and formal sense, the borough concept

[6]Public Administration Service, *op. cit.*, p. ix.

incorporated several basic features of the metropolitan governmental ideal that had been pursued (with little success) in other areas of the United States, particularly during the decade before Alaska became a state. Alaska would thus be something of a laboratory for the testing of areawide urban governmental schemes that were of national interest; perhaps some useful lessons might even be derived from a study of the Alaska case.[7]

Thus, the question of the borough—its purpose, nature, and role, and the actual process of establishing it—necessarily encompassed several significant and interrelated issues basic to local government and state-local relations in Alaska and possibly in other states. Within this context, the focus is on local government and the evolution of boroughs in urban Alaska, where all but one of the existing boroughs are located. Although from a statewide viewpoint the governmental problems of urban and rural Alaska are interrelated, conditions and needs in Alaska's rural regions are themselves very complex and sufficiently different from those in urban regions to place them beyond the scope of the present study.

Conflicts of expectations, intent, and interest have been inherent in borough government from the time of the Constitutional Convention. A major assumption of this study is that understanding of borough government and its prospects requires close examination of the characteristic forms these conflicts have taken. It is mainly in these terms, then, that the following chapters attempt both to explain borough government in Alaska and to explore various courses of action that may be followed in resolving the borough problem.

[7]In fact, the only other published study of Alaska's boroughs is entitled *The Metropolitan Experiment in Alaska*, Ronald C. Cease and Jerome R. Saroff eds. (New York: Frederick A. Praeger, 1968).

CHAPTER II.

SETTING AND BACKGROUND

There were few organized local governments in the Territory of Alaska. At the time of statehood, only 40 cities and 16 special districts existed in an area of 586,400 square miles. Less than half of the 40 cities had populations of 1,000 or more. Anchorage and Fairbanks, the two largest cities, accounted for over a fifth of Alaska's total population with 1960 populations of 44,000 and 13,000. Nearly another third of the population lived in special districts and state-serviced areas around their borders. A local tax base was all but non-existent except in the few populous areas, and most of the basic service, protection, and regulatory needs of local settlements outside the larger cities were met at minimum levels by federal and territorial agencies. The political and legal fact of statehood could not itself change the basic population and economic characteristics of Alaska. Thus, there was the risk that new local government structures might be created in the absence of the population and economic growth needed to support them.

As elsewhere, Alaska's changing pattern of local government can be explained largely in terms of environmental forces and as the cumulative effect of mostly unplanned decisions and commitments. The most important underlying factors have been the shifting currents of economic exploitation and development, military and defense requirements, and the changing needs, values, and motivations of Alaska settlers and entrepreneurs. The purpose of this chapter is to explain how the underdeveloped condition of Alaska's local governmental system, and the socio-economic factors underlying it, affected the establishment of boroughs after statehood.

Evolution of Local Government in Alaska

Government in Russian America

Formal governmental structures were first imposed on Alaska following the formation in 1799 of the Russian-American Company,[1] a commercial

[1]See Semen B. Okun, *The Russian-American Company*, (Cambridge: Harvard University Press, 1951).

fur trading enterprise owing its legal existence to a charter granted by the Russian government. Exclusive trade rights were granted under the charter, which was renewed in 1821 and again in 1844.

As the Czar's representative, the governor of the company had virtually absolute economic and political control over the people—Russian, Creole, and Native. (There were about 40,000 Natives—Eskimos, Indians, and Aleuts—and less than 1,000 whites in Alaska in the mid-nineteenth century.) Russian employees contracted to work for the company for a seven-year term. Contracts could be renewed merely upon the request of the company, and persons owing money to the company could be held until their debts were paid. Although Natives had the theoretical right under the charter of complaining to the governing board in St. Petersburg against abuses by local authorities, their petitions could pass only through company channels and thus were hardly effective. Some Native chieftains helped maintain local political and social control for the company's benefit.

Russian and Creole employees did not even have the Natives' right of appeal to the company governing board. While in theory they might appeal to government authorities at Okhotsk, it was illegal to transmit complaints by a third person. This left a complainant in the awkward position of needing permission to secure passage on a company ship in order to make his appeal.[2]

Only in a narrow sense was the company a private commercial enterprise. In practice, it much more closely approximated an independent department of the Russian government. The original 1799 charter required the company management to report directly to the Czar, and, later, governmental control was further extended by appointment of naval officers in the colonial administration and by establishment of a permanent council, consisting primarily of government officials.[3]

[2]Melvin Crain, "Governance for Alaska: Some Aspects of Representation" (unpublished Ph.D. dissertation, University of Southern California, 1957), p. 95.

[3]Okun, *op. cit.*, pp. 116-17.

Whatever changes there were in the relationship of the company to the Russian government, conditions did not change for the inhabitants of Alaska. Those residing in company settlements or within their spheres of trade remained subject to the unchecked authority of the governor and his personal delegates. No local governmental institutions could, or were permitted to, take root in Russian America.

Local Experiments After American Purchase

Alaska became an American possession with its purchase in 1867. Until the Organic Act of 1884, the U.S. Army and Navy were charged with maintaining basic order in Alaska; they provided the only official governing force, but their objectives and means were extremely limited. No authority to organize local governments was granted until 1900. And the restrictions placed on the Alaska "district" and territorial governments—themselves created piecemeal under successive federal acts—all but assured that no effective local governmental system would be permanently established.[4] However, certain attempts at extra-legal forms of local government before 1900 are worth noting.

The Sitka Experiments: Soon after the Alaska purchase, the people of Sitka set up a "City Provisional Government" with the consent of the American military commander. The government was composed of a mayor, council, fire department, and a court. While the formal record of this first local government suggests order and progress, the reality was otherwise.[5] Laws were ignored by soldiers as well as by citizens during the four-year existence of the city government. The military not only failed to provide law and order, but contributed much to the crime and violence that occurred.

[4]See Jeanette P. Nichols, *Alaska: A History of its First Half Century Under the Rule of the United States* (Cleveland: Arthur H. Clark Co., 1924); and Ernest Gruening, *The State of Alaska* (New York: Random House, 1954).

[5]*Record of the Proceedings of the City Council of the City of Sitka, Alaska Territory*, 1867-1871. Filmed by the Alaska Historical Library, 1966. Also see Nichols, *op. cit.*, p. 40.

Both officers and men were frequently drunk and disorderly, creating chaos and fear in the community and provoking reprisals, particularly from the Natives, who were special targets of assault. The collapse of Sitka's first government followed upon the decline of economic activity and population when the remaining stores and other facilities of the Russian-American Company were closed down and dispersed in 1871.

Sitkans made another attempt eight years later, when the U.S. Navy succeeded the Army military command. They looked to the new naval commander to maintain law and order, but as he described his own dilemma:

> The problem presented to me was how to govern a mixed community of whites and Indians with no code of laws but the Revised Statutes of the United States, the United States Naval Regulations, and the Treaty with Russia. . . . Should the Indians refuse to recognize my authority, the means at my disposal were not sufficient to enforce obedience; and if the whites refused, there was no method which I could adopt to coerce them which would not render me personally liable to civil proceeding.[6]

Sitka's second "government" collapsed after ten weeks. In addition to the lack of basic order, a significant faction of miners opposed the government because of the taxes it had proposed to levy.

Miners' Law: The "miners' meeting" organizations of Juneau, Nome, and other settlements in the late nineteenth century are examples of the more advanced forms of civic structures created by settlers before any legal base for local government existed. The miners' law brought some semblance of order to the affairs of gold prospectors, claimants, and mine operators. The Organic Act of 1884 explicitly recognized such law and the miners' organizations.

This act, the first congressional provision for government in Alaska, made Alaska a district and provided for a civil governor and a judicial organization comprised of a judge, a marshal, a district attorney, four

[6]Quoted in Alfred Hulse Brooks, *Blazing Alaska's Trails* (College: University of Alaska and Arctic Institute of North America, Caxton Printers, 1953), p. 506.

commissioners, and four deputy marshals. The laws of Oregon were to be applied, and the United States' mining laws were extended to Alaska:

> The miners of each mining district may make regulations not in conflict with the laws of the United States or with the laws of the state or territory in which the district is situated governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim.

Local law enforcement officers, rudimentary court systems, and elected mayors, councils, and other officials began to appear in the larger settlements. Given some assurance of order, a few families arrived, and schools, churches, and hospitals were constructed.

In Alaska, as in so many other regions of the frontier West, the miners' meeting and law helped fill the local government void. In terms of both democracy and efficiency, however, the effectiveness of the miners' meetings in Alaska, as elsewhere, should not be exaggerated, since the practice in American mining towns often tended more toward mob rule rather than justice.[7] Moreover, because it was merely an expedient arrangement for the adjudication of mining disputes, the miners' meeting had very limited application and lasted only as long as the mining enterprise endured. As viewed by an observer of the Alaskan scene at the time:

> The miners' meeting is the only government in the interior of Alaska, but it appears nearly to have outlived its usefulness, and with the growth of the country and the introduction of a class of nonproducing adventurers, attracted by the hope of making fortunes at the expense of the producers, it is fast becoming a mockery. The better class of miners have already objected to having disputes occurring in the gulches settled in town, for the greater preponderance of the disreputable class in the latter makes it almost impossible to obtain justice there. Again, while perfectly well intentioned, the miners are often not the ones best fitted to decide cases impartially.[8]

[7]Rodman Paul, *Mining Frontiers of the Far West, 1848-1880* (New York: Holt, Rinehart, and Winston, 1963); and Louis Arthur Coolidge, *Klondike and the Yukon Country* (Philadelphia: Henry Altemus, 1897). As recounted by Coolidge, the "reign" of Soapy Smith at Skagway was one of the worst examples of lawlessness. His gang mocked justice until the outraged citizens, themselves performing in a lawless manner, combined against Smith and his followers.

[8]Harold B. Goodrich, "History and Conditions of the Yukon Gold District to 1897," *Eighteenth Annual Report of the U.S. Geological Survey, 1896-1897* (Washington, 1898), p. 127.

The growth of the mining towns and districts revealed the inadequacy of the miners' meeting and the need for a more substantial form of government to insure peace and order, to guarantee local justice, and to provide the services needed by the community. Though Congress passed an act in 1899 giving Alaska a criminal code, the local and district governmental machinery needed to enforce it was still lacking.[9]

There was, at the end of the century, a growing demand for change, and the expanding population voiced its dissatisfaction with the federal government's apparent lack of concern.[10] Primarily because of the discovery of gold in the Klondike, and subsequently in other regions, Alaska's population had doubled from 32,000 in 1890 to 64,000 in 1900. At the peak of growth during the gold rush period, about half the population was white and half was Native.[11]

Local Government After 1900

With the passage in 1900 of an "Act making further provision for Civil Government . . . ," Congress did begin to deal with the problem of structuring a governmental system for Alaska. Still, Alaska was much too remote and its population too small and, except for the Natives, too transient for officials in Washington to become overly concerned. The structures provided were minimal. Thus began a long period, which lasted until statehood in 1959, during which the Congress would pass a series of acts providing for—but concurrently imposing special restrictions on and rigid definitions of—the form, powers, and functions of government at territorial and local levels. The body of municipal law that accrued during the territorial period has remained largely intact, even after adoption of a new constitution and achievement of statehood in 1959.

[9]Gruening, *op. cit.*, p. 107-8.

[10]Stuart Ramsay Tompkins, *Alaska: Promyshlennik and Sourdough* (Norman: University of Oklahoma Press, 1945), p. 259.

[11]George W. Rogers and Richard A. Cooley, *Alaska's Population and Economy*, Volume II, Statistical Handbook (College, Alaska: Institute of Business, Economic and Government Research, 1963), Table p. 20.

Under the act of 1900, restricted, weak-mayor forms of local government were authorized in communities of 300 or more upon petition to the U.S. District Court, judicial approval, and local election. During the next 25 years, most of Alaska's major urban settlements were incorporated as first class cities under this law.

With the Organic Act of 1912, Alaska officially gained status as a U.S. Territory and was authorized to elect a territorial legislature. Although the new legislature was given some initiative and empowered to enact local government legislation, its powers in this field, as in others, were severely circumscribed, in keeping with the established pattern of previous federal acts. Most importantly, county governments could not be created in the territory unless specifically approved by Congress. The reason for this restriction reveals the character of at least some of the pressures to which federal and territorial lawmakers were exposed:

> Many commercial interests in Alaska fought against the Organic Act generally and the creation of counties specifically. Counties have traditionally been financed by a property tax. Most of the property outside incorporated cities in Alaska was owned by mineral and fishing interests. (Alaska's delegate to Congress) apparently believed that these interests would succeed in defeating the entire Organic Act if the restriction on the creation of counties were not included in the Act.[12]

In general, the Organic Act emphasized what the legislature might *not* do, denying initiative to governments at both local and territorial levels.[13]

One of the first steps taken by the territorial legislature with respect to local government was to provide for the incorporation of second class cities. This act followed the pattern for municipal incorporation first set forth by Congress in 1900. That is, a weak-mayor form of government was prescribed, and local authority to raise taxes and provide services was kept in close check. In 1943, an additional option with respect to the form of local government was granted when the territorial legislature authorized adoption of the city manager plan. Today, most of Alaska's major cities (over 1,000

[12]Alaska Legislative Council and Local Affairs Agency, *Final Report on Borough Government* (Juneau, 1961), p. 17.

[13]Cf. Gruening, *op. cit.*, pp. 151-53.

population) operate under this plan. Over the years, virtually all differences in powers between first and second class cities have disappeared, the major exception being that only a first class city may adopt a home rule charter.

The present range of city classifications in Alaska was completed in the 1950's, when third and fourth class cities were authorized to incorporate.[14] Third class "cities" are extremely small, some being little more than neighborhood enclaves organized for purposes of self-protection and to exploit the advantages that corporate status offers for acquisition and use of equipment, road maintenance, and other local conveniences. Fourth class cities, the most numerous class in the state, are mainly Native settlements located in remote rural regions. The actual functions of fourth class cities are often limited to liquor and dog control and maintenance of basic order. Most of these places were and remain extremely impoverished and highly dependent on federal agencies such as the Bureau of Indian Affairs and the Public Health Service and on state agencies such as the Departments of Education and Health and Welfare.

City governments of one class or another had been incorporated in virtually all of Alaska's urban areas by the time of statehood. One problem in some of the larger areas, however, was the development of suburban settlements around city boundaries and the resistance of their residents to city annexation. Any incentive they may have had to annex to the city was at least partly neutralized by the availability of essential services through independent school district and public utility district organizations.[15]

School Organization

During the course of its history of settlement, four different school systems have come into existence in Alaska. Three of these still occupy prominent places: federally operated rural schools under the Bureau of Indian Affairs, state-operated rural schools, and local "district" schools.

[14]See Appendix B for summary of differences between the four classes of city.

[15]See Federal Field Committee for Development Planning in Alaska, *Alaska Natives and the Land* (Washington: Government Printing Office, 1968), Chapters I-II.

Only scattered remnants of the fourth system—private and denominational schools—are still to be found. The most important of these for understanding the borough controversy after statehood are the state-operated rural schools and the local district schools systems.

What is now the state rural schools system began with the federal Nelson Act of 1905, which provided for the establishment of schools in unincorporated areas. The schools were to be for "white children and children of mixed blood who lead a civilized life." This system later was placed under the jurisdiction of the governor of Alaska and became the nucleus of the territorial school system established in 1917.

The forerunner of today's borough school districts was authorized in 1935, when the territorial legislature provided for the incorporation of "independent school districts" encompassing cities, their suburbs, and adjacent hinterlands. These school districts were established mainly in the larger urban areas of Alaska, with Anchorage and Fairbanks being the first to adopt this organizational form soon after the end of World War II.

An innovation in local organization associated with the independent district form was that, for the first time, local financing of a common school unit was shared by incorporated cities and unincorporated areas. The governing body of the independent school district was a popularly elected school board of five members. While the board exercised exclusive local control over all matters pertaining to the schools and their programs, it was required to submit its annual budget to the governing body of the city within the independent school district.

A 1951 territorial law completed the basic structure of school organization in Alaska before statehood. It required that all municipalities of the first, second, and third class outside independent school districts assume local school responsibilities. The so-called city school district system was thus extended to include all except fourth class municipalities in Alaska. In addition, city school districts were required to assume at least part of the financial burden for public education, as were the independent school districts.

Education became the single largest public expense at the local level, often claiming over half of all local tax revenues. On the other hand, the school programs of fourth class cities, unincorporated Native villages, and other rural settlements were, and still are, supported wholly from state and federal sources. Consequently, taxpayer groups and local officials in urban Alaska have criticized state policies that require that they support schools not only in their local areas, but on a statewide basis as well.[16]

The legislature had attempted to remedy this situation in 1951 by passing a mandatory school district incorporation act. Under its terms, the territorial Board of Education was empowered to require the establishment of local school districts, to be supported in part by local taxes, in areas meeting certain criteria of school enrollment and fiscal capacity. Because of community resistance, however, the act was never implemented and the tax equalization problem remained.[17] After statehood, proponents of borough incorporation pointed to the failure of this earlier attempt as they argued their own case for mandatory boroughs and the extension of local tax powers into rural areas.[18]

[16]By the time of statehood in 1959, there were approximately 20 city school districts, nine independent school districts, one incorporated school district, 100 state-operated schools, and 80 federal BIA schools. The city and independent school districts in the more urbanized areas of the state enrolled about two-thirds of the 60,000 children served by the three major systems in Alaska—federal, state, and local. The federal Bureau of Indian Affairs schools continue to serve the Native population almost exclusively, the state schools now serve both whites and Natives in rural areas and on military bases, and the local district schools (borough and city) serve everyone in the larger urban communities. See Governor's Committee on Education, *An Overall Plan for Rural Alaska.* Approved by Governor William A. Egan as the Official State Plan. (Revised.) (Juneau, February 28, 1966), pp. 1-2.

[17]In an earlier attempt at tax equalization, the legislature enacted a territory-wide property tax program in 1949. Refunds were made to organized local units (cities, school districts, and public utility districts) in which taxes were collected. This tax program was repealed in 1953, in part because of the costs and difficulties of administration, particularly in rural Alaska, but also because of opposition from the mining and fishing industries, Natives, homesteaders, trappers, and others.

[18]See Chapter IV, p. 82 below.

Statehood and the establishment of borough government did not, however, significantly alter the structure of school organization or the existing distribution of authority. Although the boroughs covered larger areas than had the independent school districts and these came under the formal authority of the boroughs, for the most part district organizations remained intact. New areas were required to contribute local funds to school programs that had previously been wholly state supported, but separately elected school boards and appointed superintendents and their staffs were maintained much as before. The budget review authority, formerly exercised by city councils within school districts, was transferred to the new borough assemblies, but districts generally preserved their relatively independent fiscal bases. School organization outside boroughs was affected neither in form nor in function by the new developments in the local governmental system after statehood.

Public Utility Districts

The other form of special district government existing in Alaska before statehood was the public utility district (PUD). Authorized by territorial legislation in 1935, PUD's could be established in unincorporated areas for the financing and provision of virtually any local service, including all utilities, and the development and operation of such diverse enterprises as hospitals, dams, cold storage plants, warehouses, and canneries. These were multi-purpose special districts, with independent financing, governed by an elected board of directors.

At the time of statehood, seven PUD's existed in Alaska. Four were suburban units on the outskirts of major cities,[19] one was an enclave within a city,[20] and two were separate urban settlements.[21] With statehood and local government reorganization, the four "suburban" PUD's became special service areas within boroughs, the city enclave district was annexed to the city, and the remaining two PUD's incorporated as municipalities, one within

[19] Auke Bay near Juneau, Hamilton Acres adjacent to Fairbanks, Mountain Point in the Ketchikan area, and Spenard on the border of Anchorage.

[20] Fairview in the city of Anchorage.

a borough and one outside. The special service areas of the boroughs carry on the old PUD functions, but with new fiscal arrangements (differential tax rates) and borough assembly authority substituting for the previously independent fiscal and electoral authority of the PUD's.

With cities remaining intact and school districts maintaining their independence within the new borough structures, PUD's were the only local government units eliminated when boroughs were established. Yet, even they have survived to some extent in the form of borough service areas. Thus, as subsequent chapters of this study will discuss in detail, boroughs were an additional layer of local government in several relatively small urban areas, many of whose residents were concerned about their ability to support the local government organizations they already had.

The Socio-Economic Environment

The configuration of existing local structures, service arrangements, and tax sources was one set of factors that the constitution writers would need to take into account as they considered the design of a new local governmental system. More basic and intractable factors were associated with the socio-economic environment of the system. The Alaska economy was, and, to a large extent, still is, insular, nondiversified, service oriented, and capital intensive. It has been highly dependent on "government industry," with the federal government being the largest component.[22] Alaska's location and the nature of its economy shaped an unstable and transient population pattern. Federal and territorial (and then state) governments have played prominent roles in meeting community development and service needs that are beyond the administrative and fiscal capacities of most local governments.

Recent oil discoveries on the state's North Slope, and significant exploration activities elsewhere, will undoubtedly have major impacts on the

[21]Homer in the Kenai-Cook Inlet area, and Dillingham on Bristol Bay.

[22]See Appendix C on federal government expenditures in Alaska in 1967 and 1968.

economic and political life of Alaska. Accompanying these developments will be an expansion of the fishery, forestry, and mineral industries and increased stability of the entire economy through growth of complementary manufacturing and service activities. In the territorial period and in the early years of statehood, however, Alaska's economic condition and prospect gave little cause for optimism.

Economic Forces

The impact of outside forces on Alaska's population growth and settlement patterns has been marked from the beginning. These were the forces defining the heritage of "Colonial Alaska" and the still-present "pioneering philosophy of short-run exploitation, the 'mining' of resources, and the compulsion of 'get out or move on.' "[23] Down through the first decades of the twentieth century, these were determinants of unstable and shifting community settlement patterns.

Prior to the Second World War, Alaska had a colonial economy based on the exploitation of furs, salmon, and gold by absentee interests. Capital financing was non-resident, most of the seasonal labor force was non-resident, products were all exported, and no efforts were made to develop local economies beyond that required to support extractive industries. "Boom and bust" local civic organization thus reflected the ups and downs of these economic activities. Local community population and settlement patterns were basically unstable, while the traditional patterns of life of Alaska's Eskimos, Indians, and Aleuts were undermined.

With World War II came military construction and other defense-related spending in Alaska that gave the state's economy a new dimension, though no stable base. Development of the territory's strategic potential meant investment in communication and surface transportation networks, as well as a quantum jump in population. The postwar economy was, however, very unstable in that the infrastructural and other development did not rest on an

[23]George W. Rogers, *The Future of Alaska* (Baltimore: The Johns Hopkins Press, 1962), p. 267.

indigenous economic base. Wartime and post-war military spending stimulated only limited secondary economic growth, and the resulting economy was essentially consumption oriented.

An extremely high rate of mobility and transiency has been associated with Alaska's pattern of growth. This characteristic was greatly intensified during the post-war period of defense and military construction activity. Lured by high wages, many single men came to Alaska only to leave when the job was done or employment fell off. There was a regular turnover of military personnel and their dependents, who comprised about a quarter of the state's total population in recent years. While the post-war period was characterized by rapid population growth, it was an unstable population, and "Military Alaska" was "as non-resident in its special way as was Colonial Alaska."[24]

In the years immediately after Alaska became a state, it became clear that statehood, even with the most modern institutions, was not automatically going to lead to the kind of development that most Alaskans envisioned. State control over development was one thing, making it happen and stabilizing the economy was another. The economy remained heavily dependent on government and various supportive and tertiary service industries. Although resource deposits were known to exist, no accurate assessments of their commercial value had been made. Thus Alaska faced persistent economic and financial crises as federal agency responsibilities were transferred to the new state government.

Only a handful of Alaska's municipalities were then, or are now, in developed urban areas having the economic base and fiscal capacity needed to support a significant range of urban services and local development programs—adequate sanitation, water and utilities, streets and lighting, fire and police protection, parks and recreation, and planning and zoning. Accordingly, the pattern of territorial days, in which the territorial government assumed responsibility for both financing and administering basic urban service and community development programs, still holds in its

[24] *Ibid.*, p. 268. With the decline in military spending and personnel after the mid-1950's, natural increase began to displace migration as the principal factor in Alaska's growth pattern.

essentials. Education, health, welfare, road construction and maintenance, and administration of justice and law enforcement are mainly state-financed functions, and all but education are primarily state-administered as well.

Population Patterns

By 1970, 300,000 people resided in Alaska, making it the smallest of states in population. Even so, population had more than quadrupled since 1940, with most growth occurring in a few major urban areas.

TABLE II-1.

ALASKA'S POPULATION, 1900-1970

	1900	1910	1920	1930	1940	1950	1960	1970
Number (in thousands)	64	64	55	59	73	129	226	300
Percentage Change	——	0	-14.5	7.7	22.3	77.4	75.8	32.8

SOURCE: U.S. Bureau of the Census.

Over half the state's population is clustered in and around Anchorage and Fairbanks, the two largest cities and sites of major military installations. Another fifth of the population lives in or near intermediate centers of two to ten thousand people, or in towns of over a thousand. Only about a quarter of the population, mostly Alaska Natives, live in smaller places and strictly rural areas.

TABLE II-2.

ALASKA'S URBAN AND RURAL POPULATION, 1960

	Number	Percentage
Major Centers (10,000 or more)	120,000	53%
Intermediate Centers (2,000-10,000)	33,900	15
Towns (1,000-2,000)	13,300	6
Rural (under 1,000)	59,000	26
TOTALS	226,200	100%

SOURCE: Adapted from George W. Rogers, *Alaska Regional Population and Employment*, SEG Report No. 15 (College: Institute of Social, Economic and Government Research, University of Alaska, 1967), Table 2, p. 31.

Nearly half of Alaska's population in 1960 resided outside of the state five years earlier. In each of the two largest urban areas, Anchorage and Fairbanks, over 60 per cent of the 1960 population was comprised of newcomers to Alaska. In the more stable urban communities of the Southeast, however—Juneau, Sitka, and Ketchikan—the newcomer proportion ranged between only a fourth and a third. This proportion was

lowest in the rural, Native northwest and southwest regions of the state.[25] (See Alaska regional map on the next page.)

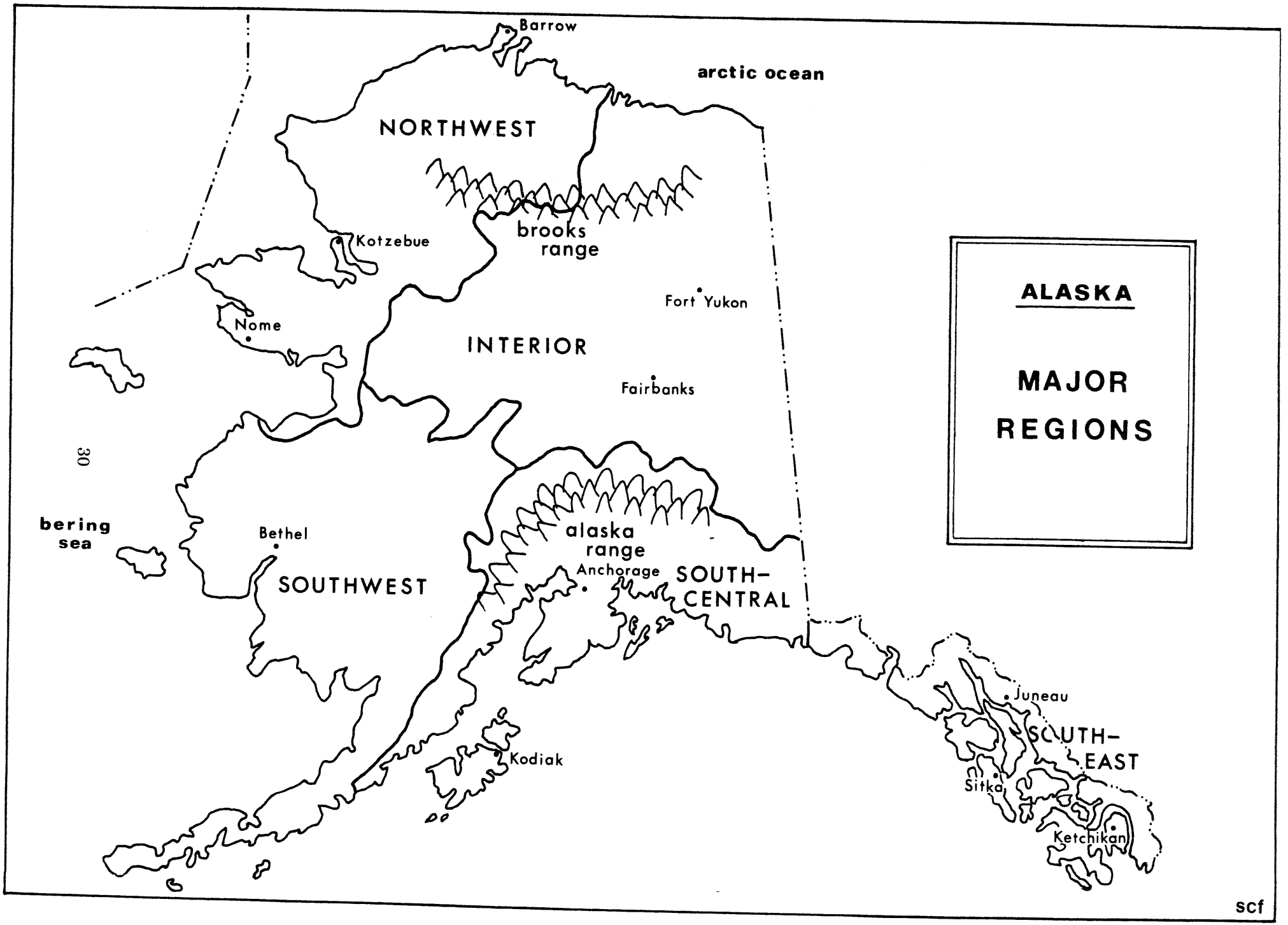
TABLE II-3.

NEWCOMERS TO ALASKA, BY REGION, 1960

	Population, 1960 (over 5 yrs. old)	Resided Outside Alaska, 1955	Percentage Newcomers
Southeast	30,750	8,130	26%
Southcentral	92,380	50,920	55
Southwest	17,650	4,810	27
Interior	41,510	24,320	59
Northwest	9,660	1,330	14
TOTALS	191,950	89,510	47

SOURCE: Adapted from George W. Rogers and Richard A. Cooley, *Alaska's Population and Economy*, Economic Series: Publication No. 1, Vol. II (College, Alaska: Institute of Business, Economic and Government Research, University of Alaska, 1963), Table P-38, p. 47.

[25]Only about 10 per cent of the 1960 U.S. population resided in a different state or abroad in 1955. For the five Pacific States, the figure was 16 per cent, and for eight Mountain States, 21 per cent.


ALASKA
MAJOR REGIONS
arctic ocean
bering sea
Barrow
NORTHWEST
Kotzebue
brooks range
Nome
INTERIOR
Fort Yukon
Fairbanks
Bethel
SOUTHWEST
alaska range
Anchorage
SOUTH-CENTRAL
Kodiak
Juneau
SOUTH-EAST
Sitka
Ketchikan
scf

These high levels of interstate mobility combined with other factors—such as a high ratio of men to women, a young population, and a propensity of older people to leave the state at retirement age—to create a population pattern "subject to sudden changes in direction of its trends, either upward or downward, in response to basic economic changes."[26] This, in turn, suggests a shifting and limited orientation to the local community—a high proportion of transient citizens temporarily residing in communities in which they have little or no stake. Together with the economic conditions reviewed above, it also suggests that the economic base needed for higher levels of either state or local government services was extremely uncertain as Alaska entered the statehood period.

Conclusion

Alaska was a frontier territory and it remains a frontier state. But the writers of the new state constitution in 1955 did not begin with a clean territorial slate upon which idealized local governmental structures might be neatly sketched. The task of designing a local governmental system was one of the most difficult and sensitive that they faced. It was to be in part a process of designing new structures (boroughs) and in part one of reconciling them with existing and continuing ones boroughs with cities and school districts, the state and local governments with the federal government). In all of this, enormous differences in the problems, needs, and capacities of the various regions of the state had to be taken into account.

Ninety years as an American possession saw the emergence of several types of local government structures—various classes of cities, school districts, and public utility districts—to which commitments had been made, both despite and because of their limited capacities to tax and deliver services. It would not be feasible simply to abolish these structures and substitute new, streamlined models. There were many Alaskans who opposed extension of local government boundaries and tax powers. Given a small

[26]George W. Rogers and Richard A. Cooley, *Alaska's Population and Economy*, Economic Series: Publication No. 1, Vol. I (College, Alaska: Institute of Business, Economic and Government Research, University of Alaska, 1963), p. 59.

population and limited prospects for economic growth, it appeared as the new responsibilities of statehood were assumed that Alaska already had enough government and that what the state needed most was a larger economic base to support what it already had.

The federal government had been a predominant authority and provider of services in territorial days, and sheer necessity would ensure that it would remain a major influence in the new state of Alaska. While authority and responsibility would devolve to lower levels, this would be a slow process; moreover, it would be the new state government, and not local governments, that would assume tasks and resources previously concentrated at the federal and territorial levels. Except in a few of the larger cities, Alaskans consequently could be expected to continue to look to higher levels of government to meet their public needs and to expect relatively little from their local governments, particularly any new structures that might be established.

The diversity of Alaska's regions and the great distances involved would make it most difficult to design a common statewide set of local governmental forms. As indicated, several institutions, such as limited Native village government, developed city governments, and federal and state agency programs at the local and regional levels, would need to be accepted as given; new structures would not replace them, at least in the short run. The existing organizations and programs had evolved in response to real needs and had adapted, at least in part, to socio-economic and physical realities. Any new organizational and program solutions would also need to be tailored to widely varying problems and circumstances in the different parts of the state.

Finally, the nature of Alaska's growth—in response to economic opportunity, federal decisions, and national defense requirements—not only placed limits on the effectiveness and salience of local governments, but it also tended to dictate the composition of Alaska's non-Native population. This population has been extremely mobile, often simply transient. Their place of residence may be considered only temporary and a matter of passing convenience. As a result, an unknown but perhaps significant proportion of Alaska's population may not have developed any sustaining commitment to, and stake in, local institutions of government.

CHAPTER III.

THE CONSTITUTIONAL FRAMEWORK

The writing of a constitution for Alaska was conceived primarily as a means of demonstrating to the Congress and the nation that Alaska was ready to become a state, and the strategy called for preparing a "model constitution" as a step toward statehood. Most of the delegates to the Constitutional Convention of 1955-56 believed that, despite setbacks and long delays, statehood was not far away, and that the state should start off with the best constitution possible. Further, in the minds of most of the participants, Alaska had the asset of being able to learn from the experience of other states; the delegates believed that they could be creative where other states faced virtually impossible tasks of constitutional revision. Thus, a climate existed for innovation, and this factor was particularly important for the writing of the local government article.

It was as if Alaska were about to enter a new dimension of experience, quite unlike that of the older states from which most of its residents had emigrated during the previous decade or two. Alaska seemed to offer the last real opportunity to show that it was possible to combine the best of both worlds—old and new, wilderness and town—avoiding the mistakes of the past while achieving expanded economic opportunity for a growing population. Statehood, as has been noted, was seen as the means of transferring control of Alaska's development to Alaskan hands and opening the way to a new era of growth on several fronts. Territorial leaders elected as delegates to the Constitutional Convention could attempt no less than to equip their new state with model public institutions.

It was generally agreed that the constitution should concentrate on broad principles and allow maximum leeway for adaptation to changing conditions and needs. Where its provisions pertained to the known and the understood (e.g., the functions of the legislature, executive, and the courts), this approach presented no unusual problems. But where it attempted to develop something desired but undefined, difficulties arose because general

statements of principles and goals provide only limited practical guidance for implementation. It becomes particularly important, therefore, to examine as closely as the record permits the constitution's local government provisions and the reasons behind them.

Process of Deliberation

Though the quest for statehood provided virtually all delegates with a common objective and sense of idealism, this was not a single-minded gathering. It was made up of fishermen, miners, territorial and local officials, homesteaders, businessmen, and professionals; it included relative newcomers to the territory as well as Alaska pioneers. It was therefore to be expected that personal differences, identifications with different regions of the territory, different political orientations, and different expectations for the new state would affect convention deliberations. While delegates would quickly agree about some constitutional provisions, there were other areas where agreement would be harder to achieve, and some cases where agreement might not be reached at all. Where agreement was latent or within close reach, they could easily raise, compromise as needed, and resolve issues in committee or on the convention floor, and provide fairly clear-cut resolutions and definitive statements of intent. But where this was not the case, they could compromise their differences with language of varying degrees of precision or ambiguity, make a variety of statements for the record, avoid areas of apparently irreconcilable conflict, or simply remain silent.

But it would not be only a matter of agreement or disagreement between delegates that would shape the course they followed. There would also be difficult questions for which they would have no ready answers, a number of important questions they might not define with sufficient clarity, and still others they might not define and deal with at all. Accompanying the usual problems of disagreement, then, would be the inevitable problem of incomplete knowledge. It would simply by impossible to precisely define all of the significant issues, to clarify all possible objectives and courses of action for achieving them, and to foresee all of the contingencies and consequences of statehood and of the instruments of government the convention had met to create. Thus, the predictable conditions of group disagreement and incomplete knowledge would in themselves be sufficient to

ensure that the record of convention proceedings, as well as the document finally produced, would contain gaps and ambiguities. Under the best of circumstances, the constitution could provide only a basic outline and not a finished blueprint for state and local government in Alaska.

The work that led to the constitution in its final form took place in committee and on the convention floor. The preparatory work and initial drafting of individual articles of the constitution were the functions of separate substantive committees. The Committee on Local Government probably had the most difficult job of all such committees, since its responsibility was in an area little developed in Alaska and, they felt, one that required much innovation. While the Local Government Committee was aided in its work by a number of consultants and by several documents,[1] the development of the basic concepts and provisions that emerged in the local government article was the work of the committee itself. Delegates served on committees of their choice, and those on this committee had selected it due to their concern with and interest in local affairs.[2]

A background report prepared by the Public Administration Service[3] reviewed patterns, trends, and problems of local government organization in the United States and elsewhere, and offered advice as to directions the delegates should take in molding a local governmental system for Alaska.[4] The basic PAS approach is characterized by the following excerpt from its report:

[1]Consultants included Waldon Cooper and Kimbrough Owen; references included George W. Rogers, *A Handbook on Alaska Regionalism*, Office of the Governor, Juneau, Alaska, November 21, 1955 (mimeo.).

[2]The seven members brought to the committee a variety of backgrounds and experiences: large-city and small-town mayors, city councilmen, municipal utility board membership, secretary of League of Alaska Cities; they included businessmen, a civil engineer, a professional city planner, a commercial fisherman, a bush pilot, and a minister. Significantly, no member represented the special interests of education.

[3]A non-profit organization devoted to providing research and consulting services for governments.

[4]Public Administration Service, *Constitutional Studies*, Volume III, prepared on behalf of the Alaska Statehood Committee for the Alaska Constitutional Convention, November 1955 (mimeo.). Hereinafter cited as PAS, *Report*.

> Alaska's opportunity lies in boldly recognizing that units of local self-government can prove satisfactory in the long run only if such units are based on natural geographic, economic, and social communities large enough to meet the service needs of the natural regions, and endowed with sufficient resources to support adequately a minimum standard and level of necessary services. Similarly, by recognizing that all local legislative authority and all local executive and administrative functions can and should be vested in one unified local government, Alaskans will be reaching at one stride a goal that local government reformers and specialists have been striving to attain in many states over a period of several generations.[5]

While not necessarily "local government reformers and specialists," committee members generally shared the values and principles set out in the PAS *Report.*

In approaching its task, the committee reviewed the principles and structures of government in other states, Canada, Scandinavia, Latin America, and other parts of the world. Analyses were made of the special situation of Alaska and of its varying regions and communities. These and related deliberations led to an initial formulation of principles and criteria for local government in Alaska and also helped to determine what should *not* be done. The difficult task, of course, was to design a pattern for the new state. There were no direct precedents. It was in part for this reason that the committee decided that the local government article should consist of general statements and policy rather than detailed prescriptions.

This approach ideally would have included thorough discussion of basic purposes and principles for the convention record, but the convention as a whole did not delve deeply into the issues posed by the local government article. Rather, members were primarily concerned with obtaining clarification of some of the specific proposals and debated the more controversial aspects, such as the position of the education function in the new local government system. The convention proceedings,[6] therefore, provide only limited insight into the local government article, except for the

[5] *Ibid.*, p. 60.

[6] Alaska, Legislative Council, *Alaska Constitutional Convention Proceedings*, November 1955 to February 1956 (Juneau, 1965). Hereinafter cited as *Proceedings.*

general statements by committee members when the proposals were first placed before the convention. A more complete view can be derived from the minutes of the Local Government Committee, but unfortunately, these, too, are generally cryptic.[7]

The Borough

From the start of the convention's deliberations the committee members believed that some type of unit larger than the city and smaller than the state was required to provide both for a measure of local self-government and for performance of state functions on a regionalized basis. It was agreed early "that any form of local government for Alaska that may be similar to counties would need a broader scope, should have authority to perform all services and provide a maximum amount of local self-government."[8] The result was the borough concept, that of an areawide unit different from the traditional form of the county.[9]

As seen by the delegates, the inadequacies of counties included limited functional jurisdiction, frozen boundaries, an overabundance of constitutionally established elective offices, and lack of specifically local governmental authority. They noted also that numerous special districts

[7]Alaska Constitutional Convention, *Minutes of the Committee on Local Government*, 1955-56 (mimeo.). Hereinafter cited as *Minutes*. Included with the *Minutes* are the Local Government Committee's *General Discussion* and *Commentary*, as cited below. See Appendix B for Index of Local Government Committee Minutes and Proceedings.

[8]*Minutes*, 8th Meeting.

[9]Much controversy surrounded the selection of the name "borough." While there were strong proponents of the word "county" (as well as canton, division, province, and others), the majority believed that the term had a very definite connotation and that its use should be avoided in order to preclude rigid thinking as well as restrictive court interpretations and decisions based on the extensive body of county law developed in the older states. It was believed that a different name could more readily be interpreted in the context of the Alaska Constitution; Black's Law Dictionary defines "borough" as "a place organized for local government purposes." See *Minutes*, 18th, 29th Meetings; *Commentary*, p. 4; *Proceedings*, pp. 2618-19; 2777-87, 3599-3608, 3621-25, 3627.

As it turned out, the strangeness of the name did not help endear the borough concept to the people, and the use of the more familiar term "county" might have facilitated general acceptance. Years after statehood, however, this is a moot point since the borough exists and any change in name would only create confusion.

were created to fill service gaps left by counties and municipalities, resulting in a multiplicity of overlapping taxing jurisdictions.

Accordingly, the initial principles set forth for consideration in the formation of a new local governmental system for Alaska included these guidelines:

—provision should be made for subdividing all Alaska into local units (boroughs), though not all need be organized;

—units should be large enough to prevent too many subdivisions in Alaska; they should be so designed as to allow the provision of all local services within the boundaries of a single unit, thus avoiding multiplicity of taxing jurisdictions and overlapping, independent districts;

—the state should have power to create, consolidate, subdivide, abolish, and otherwise change local units;

—creation of units should be compulsory, with provision for local initiative;

—boundaries should be established at the state level and must remain flexible;

—units should cover large geographic areas with common economic, social, and political interests;

—local units should have the maximum amount of self-government and have authority to draft and adopt charters; organized units should have the authority to perform any function, to adopt any administrative organization, and to generally undertake any action that is not specifically denied to them by the legislature.[10]

[10] *Minutes*, 9th and 18th Meetings: *General Discussion*, p. 3.

Neither the Local Government Committee nor the convention ever debated the need for such an "areawide" unit. Thus, *there is little in the convention record that clearly describes what the borough is (e.g., an extensive regional unit or a more limited urban area unit), what its purposes are, and how it would function.* Most delegates agreed, however, that the special characteristics of Alaska made the creation of a universally adaptable areawide governmental unit necessary, and it was accepted without much discussion that a governmental entity designed strictly for the larger urbanized areas (e.g., Anchorage) would be totally unworkable in rural regions. Committee members reviewed the regional configuration of Alaska, the performance of different areawide and local functions within the regions, and the ability of different areas to govern themselves and finance required services.[11] This directed further emphasis to maintaining flexibility within the structure of local government and accommodating the system to the varying conditions throughout the state. Delegates representing these diverse regions did not seek lengthy explanations—they accepted the basic concept of the borough and assumed that it could be adequately defined and made to work effectively in areas with which they were familiar.

Organized and Unorganized Boroughs

All of Alaska was to be subdivided into logical borough units. Depending on readiness and capability for government, these would be classified as organized or unorganized boroughs, and the people of each area would then be able to determine the details of their own governmental units. Recognizing the varying fiscal capabilities of different regions, delegates anticipated that state subsidies would be necessary to assist in carrying out local area functions.[12] It was visualized that boroughs could proceed from unorganized or limited-function status to self-government under home rule charters. Likewise, boundaries were to be left flexible in order to permit

[11] *Minutes*, 9th, 10th, 11th Meetings.

[12] *Minutes*, 12th, 13th, 18th Meetings.

future adjustment to growth and changing requirements for the performance of regional functions.[13]

The initial draft article submitted to the convention by the Local Government Committee included a provision requiring the legislature to authorize three classes of boroughs.[14] These would account for variations among areas with respect to economy, population size and density, means of transportation, financial ability to support local government, and other factors. The committee explained the different classes as follows:

> A borough of the first class would offer the largest amount of authority and self-government to its citizens through adoption of home rule charters. The third class borough would have the most limited scope, with the state performing most of the local functions. It could remain unorganized. A governing body might be elected to act in an advisory capacity to the state in cases where the state is providing funds to perform local services. The second class borough is granted powers falling in the range between the other two classes.[15]

The final committee proposal and the adopted article did not refer to numbers or types of classes, but simply authorized the legislature to classify boroughs. The basic concept of gradation according to local conditions is, however, reflected in the constitution in its reference to boroughs of the first class[16] and the provision for unorganized boroughs.[17]

Unlike the organized borough, legally a municipal corporation, unorganized boroughs were regarded as instrumentalities of the state. They would serve as vehicles for decentralizing and regionalizing state services and for fostering local participation in the administration of state programs within regions not ready or suited for corporate municipal status.

[13]During a discussion of the size of boroughs, one delegate suggested that while the initial Anchorage area borough might extend from Portage to Knik Bridge (its actual current size), it might over time be consolidated with other boroughs and extend from Seward to the Matanuska Valley. (*Proceedings*, pp. 2627-28.)

[14]Constitutional Convention, *Committee Proposal/6*, Section 3.

[15]*General Discussion*, pp. 3-4.

[16]*Constitution*, Article X, Section 9, authorizing adoption of home rule charters.

[17]*Constitution*, Article X, Section 3.

Since the unorganized borough was not regarded as a self-governing unit, the legislature was given authority to exercise within such boroughs the same powers that assemblies (the borough governing bodies) would have in organized boroughs. Discretion as to what services would be extended within an unorganized borough would remain with the legislature.[18] By permitting the legislature to act as the borough assembly, the general prohibition against local legislation was overcome, and laws could be enacted for differential performance of functions in accordance with the requirements of different boroughs.

Although the convention perceived that parts of the state would not be ready for incorporation as organized boroughs due to fiscal and administrative inability to support areawide functions, it was, nonetheless, deemed appropriate that people of unorganized boroughs assume as much responsibility as they were capable of at any given time.[19] It was believed that the principle of local participation should apply not only in the broad formulation of state policy for the unorganized borough, but also in the implementation of policies and plans. The purposes were to ensure that functions and services were responsive to the needs and the conditions of the particular region, and to encourage at least partial self-government and local participation in the performance of services.

Service Areas

While intent on minimizing the number of local jurisdictions, the Local Government Committee believed that need might arise to provide special services to localized areas within the borough. Accordingly, the constitution authorizes establishment of service areas by the assembly of an organized borough.[20]

[18] *Proceedings*, pp. 3608-14.

[19] One suggested means towards this objective was establishment of a limited-authority assembly to provide services in an unorganized borough. (*Minutes*, 27th Meeting.)

[20] The legislature may provide for the establishment of service areas in unorganized boroughs, since under Article X, Section 6, the legislature may exercise within unorganized boroughs all the powers that the assembly has within an organized borough. (*Proceedings*, pp. 2717-28.)

Initially, the service area was conceived as a means of providing services within a limited part of the borough in which taxes, assessments, and charges could be levied to cover the cost of such services. The concept was subsequently expanded to include areawide services that might be administered by a special instrumentality such as a health or school district. Among services mentioned for possible provision to a service area were road improvements, fire protection, education, health, public utilities, garbage collection, and others.[21]

Jurisdiction over service areas of organized boroughs was to be vested in the assembly, primarily to assure a unified overview of all functions and to place the power of taxation under a single areawide authority.[22] Overlapping of service areas would be possible, but the delegates desired to keep this to a minimum. Section 5 of the local government article states that the assembly "may authorize the levying of taxes . . . within a service area . . . ," but the delegation of taxing authority to service areas was discussed both in committee and by the convention and would appear to fall within the range of constitutional intent.[23] Establishment of advisory or administrative boards for service areas was to be the prerogative of the borough assembly.[24] Thus, while overlapping and delegation might occur, all service areas would remain under the jurisdiction of the assembly.

The stated purpose of preventing duplication of tax levying jurisdictions and providing for a minimum of local government units was directly responsible for the constitutional provision that "A new service area shall not be established if . . . the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city."[25] The committee's objective was to avoid having "a lot of separate little districts set up . . . handling only one problem . . ."; instead, services were to be provided wherever possible by other jurisdictions capable of doing so.[26]

[21] *General Discussion*, pp. 5-6; *Proceedings*, pp. 3609-11.

[22] *General Discussion*, p. 5; *Proceedings*, p. 2707.

[23] *Minutes*, 36th Meeting; *Proceedings*, pp. 2707, 3613.

[24] *General Discussion*, pp. 5-6; *Minutes*, 26th Meeting.

[25] *Constitution*, Article X, Section 5.

[26] *Proceedings*, p. 2715.

Moreover, an amendment to eliminate the preference given to city incorporation or annexation over establishment of new service areas was defeated by the convention.

Cities and Boroughs

Given the general direction and character of their thinking on boroughs, the Local Government Committee was faced with the question of what to do about existing and future cities. Consideration was given to the possibility of doing away with cities altogether, even though they were the only units of general local government then existing in Alaska.

Abolition of cities and their reconstitution as urban service areas under the borough was considered as one way of promoting joint use of facilities and services and avoiding duplication of taxing jurisdictions. But other ways of achieving these objectives were also considered: extension of city boundaries to cover entire urban areas, and eventual unification or consolidation of borough and city governments. It was also recognized that cities had over the years developed distinct corporate identities and a substantial array of facilities and services; any sudden change from municipal status to uncertainty under the borough was not likely to be acceptable to city residents.[27]

It was decided that the status of cities should not be changed directly by the constitution; they would continue to exist. It was stipulated, however, that the city be a "part" of the borough in which it was located, and other provisions were made with the intent of encouraging cooperation between cities and boroughs. These included joint service of city councilmen on the legislative bodies of both the city and the borough, joint performance of functions, and voluntary transfer of functions from the city to the borough.

While designing an ideal model, delegates were not unaware of the potential for local government conflict. Indeed, the Alaska local political

[27] *Minutes*, 14th, 15th, and 19th Meetings.

scene at the time was highlighted by disagreements between cities and school districts, battles over annexation, and troubles between cities and public utility districts.[28] Delegates were also aware of interjurisdictional problems existing among cities, counties, and special districts in the larger urban areas of other states. They thus sought to create a system in which conflict would be minimized. As stated by the committee:

> The borough is created as a form of area government. Many boroughs of Alaska will have no cities within them. Others might include one or more cities, which would be part of the borough.
>
> The borough would have no control over internal affairs of cities within its boundaries. The borough's jurisdiction would cover matters involving the borough outside of cities and matters jointly involving the city and a surrounding area.
>
> The committee believes that maximum cooperation between boroughs and cities and integration of their mutual functions will provide residents with best services at least cost. Provisions in this article facilitating mutual action include authority for cooperative agreements, for the transfer of functions from one unit to another and for establishment of service areas. Coordination will also be fostered by the provision that the city's representatives on the borough governing body be members of the city council since they know what the city can offer and are familiar with city needs.[29]

The intended relationship was probably best described in the following words:

> Our whole concept has been based, not upon a separation of the two basic units of government, the borough and the city, but as close an integration of functions between the two as is possible. It was felt, for instance, that we should not, definitely not follow the pattern that you find in most stateside counties where you have the exactly same functions being carried out separately at these two levels of government with their own hierarchy of officialdom and separate capital investment. It was our thought that wherever

[28] See *Minutes*, 12th, 35th and 40th Meetings, *Proceedings*, pp. 2637-38.

[29] *General Discussion*, pp. 4-5; also see *Proceedings*, pp. 2626; 2653-54.

> functions overlap that they should be integrated, and from that standpoint it was the Committee's feeling that if we can get the coordination between the city council and the borough assembly we would be able to achieve the maximum amount of cooperation because then each would best know what the other had to offer, they would realize what the problems of the other were, and you would force them, almost, into the cooperation that we hope to achieve in our local government.[30]

While joint council-assembly service was seen as a means toward cooperation, concern was repeatedly expressed about the extent to which cities might dominate the borough through direct representation on the assembly. It was stated, however, that the Local Government Committee's

> . . . thinking all the way through has been in terms of not giving anybody control of the borough (sic). The city representation and the representation from outside of the cities on the borough assembly would be according to whatever standards are prescribed by law. It is our thinking that generally a system of apportionment would probably be set up by the legislature under which both population and area would be taken into consideration.[31]

The question was also raised whether city representatives who are not council members should be permitted to serve on the assembly. The committee's position was that "in order to get the integration between your city and your borough . . . it would be necessary to have members from the city that were authorized to represent the city."[32] Through joint service of city representatives as assemblymen and councilmen, it was expected not only that cooperation would take place at the borough level, but also that borough interests would be represented within the municipality's governing body.[33]

[30] *Proceedings*, p. 2625.

[31] *Proceedings*, pp. 2637-38.

[32] *Proceedings*, p. 2639.

[33] *Proceedings*, p. 2640.

Although most delegates accepted this line of reasoning, others believed that this approach, instead of minimizing conflict, would lead directly to it:

> We're going to have a borough, but the members on that borough [assembly] are going to be representing interests and not the borough. We are going to have people there that are there for the specific purpose of representing the city. We are going to have other people that are there for the specific purpose of representing the people outside of the city.[34]

As indicated, the constitution also authorizes agreements for cooperative and joint administration of functions and powers, and permits the transfer by a city of any of its powers or functions to the borough in which it is located.[35] Such transfers would be voluntary, with the transfer terms dependent on city-borough agreement. The convention viewed such arrangements as matters of strictly local concern and provided no role for the state in effecting them; nor was any provision or suggestion made for such arrangements to be contingent upon local petition or election.

School Districts and Boroughs

The Local Government Committee viewed education as a function of general government, and made no special provision for school districts in the local organizational structure. A similar concept was applied at the state level, where the Department of Education was to be under direct control of the governor. In both cases, however, an intense effort was made on the convention floor to remove education from general government control and endow it with administrative and fiscal autonomy. As in the case of borough-city relationships, the resolution of this issue by the convention was less than definitive, though the general direction of intent was reasonably clear.

[34] *Proceedings*, pp. 2762-63.

[35] *Constitution*, Article X, Section 13. A review of functions that might possibly come under this provision brought out examples relating to the transfer of health functions, sanitation inspection, fire protection, and road maintenance from a municipality to the borough for performance on an areawide basis. (*Proceedings*, p. 2668.)

Education in Alaska's major urban areas prior to statehood was under the jurisdiction of independent school districts.[36] These districts were, however, subject to budgetary control by cities located within their boundaries. Independent school districts and the territorial department of education had for a number of years prior to the Constitutional Convention attempted to eliminate this fiscal check and obtain complete fiscal autonomy at the local level. They saw the constitution as a vehicle for achieving this goal, with the issue now becoming one of fiscal independence from the borough rather than from the city.

While the Local Government Committee was drafting its proposed article, pleas for fiscally independent school districts were received from several delegates, the Commissioner of Education, the Alaska School Boards Association, the Superintendents' Advisory Commission, and others. The issue was raised again on the convention floor when it was proposed that school districts, and not just boroughs and cities, have independent authority to exercise the powers of local government and of taxation. This argument, essentially, was that educational needs and the taxes necessary to meet these needs can best be determined by those responsible for education; moreover, the importance of education was so much greater than that of other local functions that fiscal allocations for this purpose should not be subject to borough assembly approval.

The article placed before the convention by the Local Government Committee made no reference to education or schools. The committee, considering education a function of general local government, held that an authoritative overview of all borough needs and functions had to be lodged in a single authority, the borough assembly; only thus was it believed that proper weight could be given to all requirements and an equitable allocation of local taxes achieved. Opposition to fiscal autonomy for school districts was based on a straightforward concern that taxation could get completely out of hand[37] and on a desire to prevent establishment of any special purpose taxing authority. The fear was that an exception for schools would lead to establishment of special taxing jurisdictions for other purposes such as health, sanitation, utilities, and others.

[36]See Chapter II, pp. 20- 23

[37]*Minutes*, 12th Meeting.

The majority subscribed to the argument that school functions need to be related to other functions of government, not only from the standpoint of their cumulative demand on the local tax base, but also in terms of correlating education with all other activities of government. It was argued that separate status for the schools would in effect tend to make "the school districts within our cities and boroughs . . . independent of the people of Alaska as they consider the other responsibilities and functions of government."[38]

While the convention did not approve fiscal independence for schools, it did recognize that there could be separate administration of the education function through service areas coterminous with or located within organized or unorganized boroughs. Moreover, school boards and district organizations could exist within the overall borough structure. Convention discussion made it clear, however, that no matter how the school function were organized, only the assembly could authorize the levying of local taxes for education purposes.[39]

It was proposed by some that a school board within the borough be represented on the borough assembly, as was provided for city councils. The proposal was dismissed, however, since the borough was to be established as a general local government. It was reasoned that:

> . . . if a specific service like education is to be represented, then health should be represented, if we have a health service area; if we have a fire protection district, they should be represented; and what we wanted to avoid in this was the specific seating of people with just one interest on the borough assembly.

[38]*Proceedings*, pp. 2707-08. Discussion of education under the local government article is covered by *Minutes*, 11th, 12th, 13th, 15th, 16th, 18th, 19th, 28th, 34th, 36th, Meetings; *Proceedings*, pp. 2619-20, 2622-35, 2696-2708, 3627-28. The debate makes clear, of course, that those opposing fiscal independence were as concerned with good education as those who favored it.

[39]For discussion of the applicability of the service area concept to education, see *Proceedings*, pp. 2620, 2630, 2633, and 2707.

> (We prefer to keep this a general governing body so that everybody was interested in the general welfare of the whole borough.) In connection with that, there would be no prohibition against the election of, say, a member of the school board to the borough assembly.[40]

On the other hand, service of city councilmen on the borough assembly was viewed as a means of achieving cooperation between two constitutional forms of general government.[41]

Thus, review of convention deliberations shows that education was generally viewed as a function under the borough; one delegate pointed out that education "will be one of the basic functions which it [the borough] will be responsible for."[42] There was no design, however, necessarily to do away with school districts or school boards. While not specifying alternative forms of school organization in boroughs, the convention record establishes (1) that education would be a borough function, (2) that no matter how organized and administered, it would be under the general supervision of the assembly, and (3) that tax jurisdiction and fiscal control, including budgetary approval, would remain with the borough assembly.

Yet, at the same time, the convention considered education a basic state responsibility as well.[43] This point is difficult to assess in this context, since it was given little direct attention during discussion of how education would fit into the borough structure. There was, however, an assumption throughout that the state would continue to provide major support for locally governed educational services and would exercise certain controls, such as setting of standards. There was also some speculation that the state

[40] *Proceedings*, p. 2623.

[41] *Proceedings*, p. 2625.

[42] *Proceedings*, p. 2629.

[43] *Constitution*, Article VII, Section I, "The legislature shall by general law establish and maintain a system of public schools open to all children of the State. . . . " Recognition was given to education as a "basic" function being provided by the state or with state supervision, and financially supported by the state when performed locally as a shared function. Other services listed in this category were justice and law enforcement, health, and welfare, (*Minutes*, 7th Meeting.)

legislature could reserve to itself authority over education generally or school financing in particular, and then grant it directly to local school authorities. This issue was not pursued, however, due to its obvious conflict with the borough provisions then already accepted.

State Organization and Role

The lack of any general government beyond the city; a tradition of territorial responsibility for services beyond incorporated communities; the varying levels of local government capability and of the requirements for local services throughout Alaska; and, finally, the realization that further detailed study and planning was necessary to establish a new governmental system—these factors militated strongly in the direction of continuing state responsibility for local affairs. In short, the Constitutional Convention viewed the role of the state as critical in making the local governmental system work. Here, as elsewhere in its local government deliberations, the convention left much to be determined later in the state legislative and administrative process.

In addition to dealing with local government organization, Article X includes the following provisions for state authority and responsibility:

—responsibility is vested in the legislature for establishing procedures and standards under which boroughs will be created and classified;[44]

—the legislature is established as the governing body for unorganized boroughs and has responsibility for provision of services in such boroughs;[45]

[44] *Constitution*, Article X, Section 3.

[45] *Constitution*, Article X, Section 6.

—a state-level local boundary commission is given responsibility for changes in local government boundaries;[46]

—an executive agency is established in state government to deal with local affairs;[47] and

—authorization is granted for joint exercise of powers by local governments and the state.[48]

In providing for—indeed, in mandating—a major role for the state in local affairs, the Alaska constitution was taking a lead position nationally in the intergovernmental field. The concept of the boundary commission has still not been replicated in similar scope elsewhere and probably cannot be due to the frozen structures of county government and the near permanency of existing municipal boundaries in most states. Only in recent years have states created instrumentalities with some jurisdiction over annexation and incorporation. Similarly, the provision for a top-level local affairs agency preceded by several years the recent movement to create such agencies in other states.[49]

Local Boundary Commission

The Local Government Committee and the convention concluded that establishment and revision of local government boundaries should be primarily a state responsibility. Several considerations led to this conclusion: first, the delineation of boroughs required a statewide analysis of pertinent considerations; second, the state had a direct interest, since the borough was

[46]*Constitution*, Article X, Section 12.

[47]*Constitution*, Article X, Section 14.

[48]*Constitution*, Article X, Section 13.

[49]See Appendix F for brief descriptions of local affairs and related agencies in the United States at the end of 1968.

to serve not only as a local government but also as a unit for the provision of state services; third, it was generally believed that an objective analysis of relationships between adjacent local units could only be made at a higher level; and fourth was the belief that strictly local political decisions do not usually create proper boundaries.[50] Because similar considerations applied, city boundaries were also included under the jurisdiction of a boundary commission or board to be established in the executive branch of the state government. Boundary changes under this system could be made by the commission upon petition or on its own initiative.[51]

Convention delegates from the beginning considered it appropriate that boundary changes proposed by the commission be subject to legislative veto. In addition, there was some feeling on the part of the Local Government Committee "that the citizens of a local unit should have some check upon any proposed revision."[52] The issue was again raised on the convention floor,[53] but no requirement for a referendum was included in the constitution.

Initially, the Local Government Committee draft article stipulated that proposed changes be submitted to the legislature during the first ten days of any session and that they would "become effective at the end of the session unless disapproved by a resolution concurred in by a majority of all members of each house."[54] Subsequently, it was further provided that a change would be "effective forty-five days after presentation or at the end of the session, whichever is earlier . . . "[55] This amendment was adopted so that acceptable changes would not be unnecessarily delayed because of prolonged legislative sessions.

[50] *Minutes*, 18th Meeting; *General Discussion*, pp. 6-7.

[51] *Minutes*, 19th Meeting; *General Discussion*, p. 6.

[52] *Minutes*, 18th Meeting.

[53] *Proceedings*, pp. 2667, 2752.

[54] *Committee Proposal/6/a.*

[55] *Constitution*, Article X, Section 12.

While the legislature is thus given the veto power over boundary revisions and is also required to prescribe standards and methods for establishment of boroughs, the constitution does not grant it authority over Boundary Commission activities[56] or over the manner in which boundary changes are effected. The Boundary Commission in addition has the authority, subject to law, to "establish procedures whereby boundaries may be adjusted by local action."[57]

The Local Government Agency

The prominence that the convention gave to the state role in local affairs is evidenced by the fact that the "local government agency" is the only administrative agency specifically required under the constitution. Delegates generally subscribed to the principle that, unless a grave need existed, no agency, department, commission, or other body be specified in the constitution. As one delegate stated in regard to the local government agency, "Unless there is some very, very compelling reasons given for including such an agency as proposed in Section 14 in the constitution, I think we're violating the principles and policies we've already adopted here."[58] However, in view of the general belief that success of the local government plan was dependent upon existence of an effective agency at the state level, provision for a mandatory agency was included in the constitution.

Thus, Section 14 of Article X, establishing the local government agency, provides:

[56] *Proceedings*, p. 2750.

[57] *Constitution*, Article X, Section 12. It would appear questionable, therefore, whether the legislature has any direct or implied constitutional power to authorize annexation or other boundary changes by local action, since this power rests in the boundary commission.

[58] *Proceedings*, p. 2670.

> An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

The general intent was to establish an administrative agency that would help assure that the new local government system became operative and that state responsibility for local affairs was properly discharged. The final language was carefully drawn to be as broad and open-ended as possible. The convention specifically avoided designating the organizational location of the agency. While at various times references were made to it being a state department,[59] this question was left to legislative determination.

The convention also did not stipulate the functions of the agency, but the record is replete with references to the types of activities that might properly fall within its scope:

—help the people and local officials in various parts of the state obtain by their own efforts the kind of local self-government they need and can afford;[60]

—assist in establishing and organizing local government and in changing of classifications;[61]

—provide assistance and advice to cities, boroughs, service areas, etc.;[62]

—provide assistance in home rule charter drafting to boroughs and cities;[63]

[59] *Minutes*, 12th, 18th, 19th Meetings.

[60] *Commentary*, p. 3.

[61] *Proceedings*, pp. 2670, 2758.

[62] *Proceedings*, p. 2758; *Minutes*, 9th Meeting.

[63] *Minutes*, 12th Meeting; *Proceedings*, pp. 2671-73; 3614-15.

—provide assistance and overview with respect to local debt and obligations, particularly since no debt ceiling was established in the constitution;[64]

—provide assistance and advice to unorganized boroughs, other unorganized areas, and small communities;[65]

—represent the state in local government affairs; provide coordination between state and local government; and assist in reconciling conflicts between local home rule and state control;[66]

—collect and supply data that would help the local boundary commission in the formulation of boundaries;[67]

—collect and publish information relating to local government;[68] and

—carry on continuing studies to assist the people and the legislature in determining what changes may be necessary from time to time in the interests of better local government.[69]

While suggesting several kinds of activities for the local government agency, the constitutional record is totally silent about the manner in which it was to discharge its responsibilities. The same is true generally of the agency's relationship to local government units. Several references are made to state services being provided along local unit (i.e., borough) lines,[70] but there is no explanation of the purpose of this intent nor of the manner in which it is to be accomplished. The convention assumed that the purposes of such an agency were sufficiently self-evident.

[64] *Proceedings*, pp. 2757-58.

[65] *Proceedings*, p. 3621; *Minutes*, 23rd Meeting.

[66] *Proceedings*, p. 2757; *Minutes*, 16th Meeting.

[67] *Minutes*, 24th Meeting.

[68] *Proceedings*, p. 2757; *Committee Proposal/6a/Enrolled*.

[69] *Commentary*, p. 3.

[70] For example, *Minutes*, 9th Meeting.

Home Rule

An oft-repeated theme of the convention, and one of the stated purposes of the local government article, was provision of maximum local self-government to the people of Alaska.[71] As envisioned, the self-government concept would apply not only to formal home rule cities and boroughs, but extend also to general law units and even to unorganized areas, where it could take the form of local participation in state policy making and provision of state services. Home rule was held to be the vehicle for strengthening both state and local governments by permitting the people to deal with local problems at the local level. It was also to be the means for promoting local government adaptation in a state with great variations in geographic, economic, social, and political conditions.

This home rule philosophy was not believed to be inconsistent with a strong state role in local affairs. As the above discussion indicates, the exercise of state authority was considered essential in matters of incorporation and boundaries, i.e., the creation of local governments and their areas of jurisdiction were felt to be matters ultimately of state responsibility. When properly established, however, their internal organization and operations were to be primarily local concerns, particularly in the case of home rule units. Moreover, a "strong state role" also meant that the state would support local governments with financial aid and technical assistance.

Before Alaska became a state, there was little self-determination either at territorial or local levels. Federal law prescribed the powers of the territorial legislature, severely limiting the scope and types of local government that could be established and restricting the powers that could be exercised by incorporated cities.[72] Throughout its deliberations,

[71] See *Constitution*, Article X, Section 1. Typical were such statements of intent as: "all units of government will be able to have the necessary authority to perform all functions needed for proper local government," *Minutes*, 23rd Meeting.

[72] In its effort to establish municipal home rule under the territory, the League of Alaskan Cities found that this could be done only by the U.S. Congress. Also, see Chapter II, pp. 18– 20

therefore, the Local Government Committee emphasized the need for effective constitutional provisions for home rule.[73]

"Legislative Powers"

The staff paper prepared by the Public Administration Service (PAS) dealt with various aspects of home rule.[74] PAS observed that home rule provisions of other state constitutions had encountered major difficulties due to legislative limitations and narrow judicial interpretations. It pointed out that provisions authorizing municipal units to exercise all powers of "local" government (e.g., Ohio) produced endless litigation in the courts. This was due mainly to the built-in problem of determining what was of state concern as against matters that were primarily of local import. Moreover, efforts to enumerate specific powers of municipalities had proven fruitless; any powers omitted almost invariably were construed as denied by implication. Consequently, PAS recommended that Alaska follow the National Municipal League's Model State Constitution, which provided for a general grant of authority, a list of major powers, and a statement to the effect that the enumeration should not be deemed to restrict the general grant.[75]

The committee was not convinced that this approach would necessarily solve the problems that had vexed attempts to establish home rule in other states. Believing that local governments should have maximum freedom to perform desired functions and to adopt any appropriate administrative organization, the committee chose to devise a clause based on a home rule

[73] *Minutes*, 4th, 7th, 9th, 11th, 12th, 16th, 17th, 18th, 19th, 23rd, 24th, 25th, 27th Meetings.

[74] PAS, *Report*, *op. cit.*, pp. 24-40.

[75] National Municipal League, *Model State Constitution*, 1955, Section 804.

grant of "legislative powers": "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter."[76]

The intent of this provision was expressed by the Local Government Committee:

> The grant of powers is to be based upon "legislative powers" rather than a specific enumeration. Enumerations have frequently been restrictively interpreted by the courts. Nor was it felt desirable that the grant be on the basis of powers covering "local affairs" or "local government." Such terms have also given rise to continuous judicial interpretation, causing great uncertainty in what the actual powers of local government are. The grant of "legislative" power would be subject to restrictions contained in the constitution, to powers specifically withheld by the legislature and to powers withheld by the people in the adoption of their local charters.[77]

The use of the term "legislative powers" meant that a home rule government might exercise the same powers available to the state legislature.[78] Yet, it was also recognized that home rule could not be absolute. The committee believed that the legislature should have the authority to deny local exercise of specific powers when necessary in behalf of an overriding state interest or to resolve conflicts of authority between home rule cities and home rule boroughs. But it was also assumed that the legislature would not act to limit home rule powers except under such special circumstances.

[76] *Constitution*, Article X, Section 11. This approach is similar to the type of home rule that evolved in Texas after many years of judicial interpretation and abandonment of the doctrine that the Texas home rule amendment granted only "local government powers." See John P. Keith, *City and County Home Rule in Texas*, Institute of Public Affairs, University of Texas, 1951. Keith's study was used by the committee in developing the Alaska approach. The National Municipal League subsequently incorporated this approach in its *Model State Constitution*, and several states have moved in this direction.

[77] *Minutes*, 24th Meeting.

[78] Thus, the local government committee deemed it possible that resources development could be a function of Alaska local governments, even though such a power would not come under the traditional concept of what is "local," to be included in the usual enumeration of local powers.

The home rule provision was tied to a concept of classification in which those local units considered most capable of self-government would be in the highest, or first, category. When it felt ready to do so, a first class borough or city could assume home rule status; a self-executing provision for the adoption of home rule charters made this possible even in the face of potential legislative inaction.[79] The legislature was additionally given discretion to authorize home rule for other classes of boroughs and cities and even to permit individual units to attain home rule, regardless of classification.[80]

Liberal Construction

The Local Government Committee also made a special point of specifying in the preamble that "A liberal construction shall be given to the powers of local government units."[81]

Having reviewed the experience of local governments in other states, delegates feared that traditional legislative and judicial doctrines could be applied to Alaska's new local system. The preamble was thus considered necessary to give both the legislature and the courts some policy guidance in the implementation of the article.[82] It was hoped that the liberal construction clause would help assure that the new system did not become encumbered by restrictive judicial interpretation, and was seen as a step toward achieving the general purposes and intent of the article.[83]

An amendment to strike the liberal construction clause was proposed when the local government article came before the convention.[84] The

[79] *Constitution*, Article X, Section 9.

[80] *Constitution*, Article X, Section 10. The convention also recognized that the legislature could provide for general law boroughs and cities, possibly operating under optional charters; see *Proceedings*, p. 2612.

[81] *Constitution*, Article X, Section 1.

[82] *Minutes*, 23rd Meeting.

[83] *Minutes*, 26th Meeting.

[84] *Proceedings*, pp. 2690-96.

argument for deleting the provision was carried by lawyer-delegates who held: (1) that the article itself was plain and concise and would not be difficult of construction either by the legislature or by the courts; (2) that under McCulloch vs. Maryland, the U.S. Supreme Court had said that any delegation of power must be construed in the manner most beneficial to the people, and that this construction would be obligatory upon the court in interpreting the article; and (3) that, in any case, rather than construing any or all articles of the constitution "liberally," they should be construed strictly according to the constitution.

Reasons given for including the liberal construction clause were: (1) that under "Dillon's Rule" powers of local government had been strictly interpreted, and that explicit provision was required to assure sufficient scope and flexibility under the article and to provide sufficient powers to the legislature and to local government units to carry out the intent of the article; (2) that even though home rule boroughs and cities would be generally secure in the exercise of their powers under the constitution, non-home rule units would require the protection of this clause; and (3) that since the local government article was vague as to how the new system was to be implemented, it was essential that the legislature and the courts construe it liberally so as to obtain strong home rule government. In the end, convention delegates were almost evenly split on this issue, with the liberal construction provision being adopted by a one vote margin.

Transition to New System

Establishment of the new local government structure as adopted in the constitution depended almost entirely upon legislative action after statehood. First class cities could immediately take advantage of the self-executing home rule provision. Public utility and independent school districts could continue in existence until integrated into a borough by state law. But the major innovative features of the local government article—boroughs, the Local Boundary Commission, and the Local Government Agency—could be created only by legislative action.

Convention delegates intended that the initial delineation of borough boundaries would take place only after thorough study of relevant economic, geographic, social, and political factors. The objective was to assure that boroughs would be so established that their boundaries would reflect statewide considerations as well as regional criteria and local interests. As indicated, the delegates did not believe that local determination of boundaries would likely achieve this objective.[85]

The authority to organize a borough was also vested in the state, and there was initial discussion of whether boroughs should be established on a voluntary or compulsory basis.[86] It was decided that, although voluntary incorporation would be preferable, organized boroughs could be created without the approval of the people within the area. The rationale behind this position of unilateral state action was that the borough:

> . . . is more than just a unit of local government. It is also a unit for carrying out what otherwise got carried out as state functions; and when a certain area reaches a position where it can support certain services and act in its own behalf, it should take on the burden of its own government.[87]

It was anticipated, however, that the legislature might choose to provide the local people with the opportunity to vote upon the issue in a referendum.[88]

While compulsory establishment of organized boroughs was authorized, it was also expected that the state would offer adequate inducement to local people to accept organized borough status or even to initiate incorporation:

> We [the Local Government Committee] thought that at the state level it would be the policy as it has been in the past to offer certain inducements to them [boroughs] to organize . . . [To] the extent that the benefits that the legislature sets up will offset the added cost to the people . . . it was our

[85]See *General Discussion*, p. 6; also, p. 38 above.

[86]*Minutes*, 8th Meeting.

[87]*Proceedings*, pp. 2673-74.

[88]*Proceedings*, pp. 2674-76.

> thought there would be enough inducement for them to organize and exercise home rule so that as time went on they would gradually all become incorporated boroughs. . . . The thought was that inducements to organize would be offered on the basis of the granting of home rule powers plus certain other inducements that would make it advantageous to them to be boroughs, as we now have the same program of inducement to organized communities.[89]

> We felt that it could be handled in different ways, but I will mention two: one is to have some state agency that would survey the whole thing and say now is the time you have to incorporate; there is no way you can get out of it; you have to organize. I believe the [inducement] method . . . would be the most desirable, by having skilled men that would study this matter and set it up so that it would come in the form of an inducement so that they can see that they are going to benefit, definitely benefit by organizing, by getting into the picture of local government. If we do it the other way and force it upon the people, I think you're going to have it taken with resentment and probably a lack of good local government. Now, as far as wanting home rule, I think you will find that this is a common interest. I think people, most citizens, most cities, villages, be they ever so small, really want home rule. They like to feel that they are governing themselves, and by making it possible to share responsibility, to share in the work of local government, even though they be not organized, then as they see the financial picture where they will be able to do it, I think they will take the step.[90]

It was anticipated by some delegates that mandatory establishment of boroughs might result in "resentment and probably a lack of good local government," even though there was a strongly held belief in the convention that most people and most communities desired home rule and self-government. It was generally held that, with proper initial preparation by the state for establishment of boroughs and with provision of state incentives for local incorporation, the transition to organized borough status could be effected relatively smoothly. No time table for such transition is indicated in the constitutional record.

[89] *Proceedings*, p. 2650.

[90] *Proceedings*, p. 2651.

There was also little discussion of procedure or timing in bringing special districts under the borough in accordance with Article X, Section 15, which stipulates that "Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law."[91] While there was little substantive disagreement over integration of public utility districts with the borough, there was, as previously discussed, extended debate about the establishment of fiscally independent school districts.[92] Both timing and procedures for integrating special districts with the borough were left to legislative prescription.

Conclusion

The principles underlying the proposed local government system were described as follows during the convention:

Self-government—The proposed article bridges the gap now existing in many part of Alaska. It opens the way to democratic self-government for people now ruled directly from the capital of the territory or even Washington, D.C. The proposed article allows some degree of self-determination in local affairs whether in urban or sparsely populated areas. The highest form of self-government is exercised under home rule charters which cities and first class boroughs could secure.

One basic local government system—The proposed article vests all local government authority in boroughs and cities. It prevents creation of numerous types of local units which can become not only complicated but unworkable.

Prevention of overlapping taxing authorities—The proposed article grants local taxing power exclusively to boroughs and cities. This will allow consideration of all local needs in levying of taxes and the allocation of

[91]One delegate did suggest that "this is not going to be an overnight transition. This might be a matter of five, ten, twelve, fifteen years before this adjustment is made. . . . " *Proceedings*, pp. 2623-24.

[92]See pp. 47-50 above.

funds. It will lead to balanced taxation. Single interest agencies with taxing authority often do not realize needs other than their own.

Flexibility—The proposed article provides a local government framework adaptable to different areas of the state as well as to changes that occur with the passage of time. It allows classification of units on the basis of ability to provide and finance local services. It allows optional administrative forms, adoption of home rule charters, boundary changes, etc.

State interest—The proposed article recognizes that the state has a very definite interest in and concern with local affairs. For example, the credit of the state is indirectly involved in local financial matters and local units are the agencies through which many state functions are performed. The proposal therefore gives the state power to establish and classify boroughs, to alter boundaries of local units, to prescribe powers of non-charter governments, to withhold authority from home rule boroughs and cities, and to exercise advisory and review functions.[93]

Within limits imposed by group disagreement and incomplete knowledge, the Local Government Committee did produce a local government article that incorporated these principles. But the principles themselves are not unambiguous and, taken together, they are not fully consistent with one another. The completed article thus calls for both local self-government and state authority in local affairs. It establishes a framework for one local government system, but recognizes two forms of local government (boroughs and cities) and does not eliminate separate school district organization. It seeks to prevent overlapping taxing authorities, but leaves taxing powers in cities at the same time that it grants such powers to boroughs that would encompass them. Overall, the article allows for great flexibility, but necessarily at the cost of clear definition.

It would be a mistake, however, to consider the article deficient simply because of the ambiguities and inconsistencies it reflects. These were in large part imposed by time and circumstances, and followed from the

[93]*General Discussion*, pp. 1-3.

combination of objectives sought by the Local Government Committee. The committee and other convention delegates found it necessary to compromise their differences and to leave broad options for later decision where the limits of either their knowledge or ability to agree were reached. Idealism was one ingredient in convention deliberations, another was a sense of politics.

A constitution is in some ways like a treaty among nations in international politics, an omnibus law in a legislative body, or a broad-based ruling by an administrative or quasi-judicial agency. One important similarity is that the parties in such proceedings often find that they must agree to defer their disagreements, expecting to contend again later in different political areas. In setting the stage for this, they will agree on general, even ambiguous, resolutions of an issue, knowing that more definitive interpretations and decisions must subsequently be made. Such was the case, perhaps, with questions of independent fiscal and political authority for school districts, city autonomy, the actual extent of borough powers and territorial jurisdiction, and methods of borough incorporation. Those holding different views on these questions could anticipate later opportunities to press their views in the legislature, administrative agencies, the courts, and through the electoral process itself.

Finally, it is clear that the writers of Alaska's constitution sought to avoid encumbering the institution building process with excessive legal and structural constraints. They saw their task to be the defining of basic principles and the structuring of a very general framework for local government. The specifying of basic concepts and the detailing of the governmental structure were left as tasks to be carried out after statehood was achieved.

CHAPTER IV.

ESTABLISHING THE BOROUGHS

Only the most general directions and little practical guidance on certain fundamental and critical points were provided by the writers of the local government article. Left unresolved were specifics as to how boroughs should come into being, what their territorial jurisdictions might be, whether they were to be urban or rural governments or some combination of both, how many should be created, what functions they should perform, how they would relate to cities and school organizations, and what kinds of state incentives and community supports would be needed to create and sustain them. The task of establishing local government, yet uncompleted, has not been one of merely implementing a given scheme for local government, but of still trying to determine *what* is to be accomplished, even after commitments have been made to particular means and action started.

Eight of the ten currently existing boroughs were established in 1963 and 1964. Four of these were incorporated by legislative fiat and four were formed under the threat of intervention by the state.[1] The new Local Affairs Agency was in no position to assume the broad responsibilities of assisting local governments and guiding state-local relations, as envisioned by the framers of the constitution. Major disagreements in determining and adjusting borough and city boundaries led to several stalemates and the near eclipse of the Local Boundary Commission. Borough, city, and school board relations were characterized at least as much by competition and conflict as

[1]A summary of relevant events of the borough formation period (1961-64) is provided by Ronald C. Cease and Jerome R. Saroff, "The Borough: History, Powers, and Organization," *The Metropolitan Experiment in Alaska*, ed. by Cease and Saroff (New York: Frederick R. Praeger, 1968), Chapter I. This volume includes several essays on issues of borough government written from the varying perspectives of participants representing borough, city, and school interests. Also see Ronald C. Cease, "Areawide Local Government in the State of Alaska" (unpublished Ph.D. dissertation, Claremont Graduate School, 1964).

by cooperation. Until the end of the 1960's, some of the established boroughs had not fully assumed even their basic educational, taxation, and planning functions. Finally, general dissatisfaction with borough government in its present form led to the emergence by the beginning of the 1970's of borough-city unification movements in four of Alaska's major urban areas.

The purpose of this and the next chapter is to examine these problems and developments, their sources, and the specific forms they took.

The Problem of Implementation

Following congressional enactment of the Alaska Statehood Act in 1958, the Alaska Statehood Committee[2] commissioned a number of studies of problems associated with the pending transition. In one of these reports to the committee, and through it to the First State Legislature, the Public Administration Service (PAS) identified several key issues on which "the Governor and the Legislature will need more information before establishing long range policies with respect to various aspects of local government and state-local relations."[3]

PAS recommended that further study be devoted to:

1. the role of boroughs and strategies for establishing them;
2. relationships between boroughs, school administrations, and cities;
3. use of powers to change local boundaries;
4. use of service areas in organized and unorganized boroughs;
5. the nature of home rule and related powers; and
6 allocation of fiscal authority and administrative responsibility between state and local levels.

In effect, PAS was recommending that the new state government take up where the Constitutional Convention had left off in defining the nature

[2]A committee composed of legislators and public members established by the territorial legislature in 1949 to promote the Alaska statehood movement.

[3]Public Administration Service, *Local Government Under the Alaska Constitution*, by John E. Bebout (Chicago, 1959), p. x.

and characteristics of borough government. A slow and carefully deliberated course of action was strongly urged, for "there has probably been more speculation and less consensus on the future of the borough under the Alaska Constitution than on any other one subject connected with local government."[4]

As viewed by PAS, there were two contrasting approaches to local government reorganization in the more urbanized areas of the state. On the one hand, the borough could be established with a view toward eventual absorption of the city within it. On the other, the jurisdiction of the city could be expanded through annexation of the urbanizing areas around it. In most of urban Alaska, there appeared to be no need for more than one unit of local government to provide urban services. Population and economic bases were small and duplication of governmental machinery would be wasteful. "By all odds," reported PAS, "the most direct and least complicated line of evolution for many communities would be expansion of the central city with all of its existing plant, political structure, credit and fiscal base, and political know-how." But, "if this line of reasoning is valid, what foreseeable use is there for organized boroughs . . . [?]"[5]

> It may be that the best solution for the problems of urban government in most areas will be to concentrate the full responsibility in a single level, the city, or the completely consolidated city-borough. On the other hand, it may be that the borough will provide a very useful agency in rural areas for the exercise of local responsibility for administration and at least partial financing of education and a growing list of local or regional services such as local roads, fire protection, utilities (water, sewer, and others), health, recreation, etc., some of which would be provided on a borough-wide basis and some in special service areas organized and governed under the authority of the borough.[6]

[4]*Ibid.*, p. 44. At about the same time, another widely respected authority on local government and intergovernmental relations argued before the state Legislative Council that he could "conceive of nothing that might, in the long run, be more disastrous than an effort to rush pell-mell into the enactment of any legislation based on inadequate preparation." (W. Brooke Graves, "Establishing Local Government in Alaska," a statement prepared for the Alaska Legislative Council, November 28, 1959.)

[5]PAS, *op. cit.*, p. 71.

[6]*Ibid.*

It was clear that no one solution or simple formula would in practice meet widely varying circumstances and needs in all parts of the state. Thus, some boroughs might have relatively compact jurisdictions centering on an urban area, either overlapping an existing city or possibly absorbing it into a single unified government for the area. Particularly in such cases, the need for creating any *new* governmental unit at all might reasonably come into question. Other boroughs might cover extensive regions made up of several small settlements, an urban center and a hinterland, or some other settlement pattern. In different cases, the capacity of the borough to support itself through local taxation would differ substantially. And under such different conditions, the powers and functions of the borough, and its relationship to the state and to the communities within it, would also assume different patterns.

It was, in part, for reasons such as these that Article X was written in broad enough terms to permit great flexibility for the state legislature and the administrative agencies charged with implementing the borough concept. At the same time, the Constitutional Convention was, in effect, deferring rather than resolving conflicts that were likely to arise as the boroughs were created. One of the presumed strengths of the borough concept—its adaptability—was also one of its critical weaknesses. This is because "adaptability" was a function of the abstractness of the concept, which committed no one to any specific course of action. The legislature was thus faced with giving substantive content to the borough concept; significant burdens as well as broad discretionary authority were assumed by the legislature and administrative agencies. The legislature would need to discriminate carefully between boroughs in different regions without sacrificing necessary statewide standards and criteria; administrative agencies would in the first instance need to assist the legislature and later provide substantial guidance and technical assistance to local groups and agencies charged with putting the borough concept into practice. Both legislature and administration would need both to be aware of local sentiments and sources of conflict and skillful in dealing with them.

Borough Legislation and Incorporation

At the time of statehood, existing cities and special districts encompassed all of the state's urban areas, the bulk of the population, and most of the taxable wealth. Therefore, if boroughs were to be created in the more developed areas, they would have to come to terms with existing cities, accommodate public utility and independent school districts within the new borough-city structure, and confront local opposition to the extension of borough controls and taxes to outlying areas heretofore served tax-free by the state.[7]

In accordance with the constitution, the First State Legislature authorized home rule status for cities and established the Local Boundary Commission and Local Affairs Agency in the Office of the Governor. One of the initial responsibilities of the Local Affairs Agency was to provide staff support to the Boundary Commission. The Local Affairs Agency and the Alaska Legislative Council were directed to study the problem of establishing boroughs and to recommend a course of action to the legislature. Neither agency, however, was adequately equipped to undertake the necessary program of analysis and planning required before proceeding with the actual work of drafting legislation, dismantling existing structures, and establishing new ones. The state agencies tended to follow a reactive, *ad hoc* approach; they concentrated on the elimination of special districts in particular urban areas, and their course of action shifted sporadically with currents of conflict and opposition.

The Special District Problem

During the two years following statehood, the Local Boundary Commission held hearings on borough formation, focusing particularly on

[7]See Chapter II, pp. 26-27; also Cease and Saroff, *op. cit.*, 87-93.

the populous, urbanized southcentral and southeastern regions of the state.[8] Here were concentrated the public utility and independent school districts, which, under terms of the constitution, were eventually to be absorbed into borough or city governments. The constitution, however, placed no time limit on the incorporation of boroughs and the elimination of special districts as independent local units.[9]

Attention was focused most intensively on the independent school districts. They were of prime importance to the people, for they were carrying out the single most costly, most visible, and, in many aspects, most valued local function. An added pressure to deal with the school organization problem was brought to bear by municipal bond underwriters seeking clarification of the legal and fiscal status of school districts under the new constitution. A 1960 law affecting public utility districts had been vetoed by the governor on the grounds that all laws affecting special districts (including independent school districts) were "frozen" by the constitution pending establishment of boroughs.[10] Thus, the state was led to define the borough formation problem primarily in terms of the need to "integrate" the special districts, with emphasis on the schools. As a result, subsequent borough legislation made education the overriding service function of boroughs, and then mandated their incorporation in all but one urban area containing an independent school district.

[8]See Alaska, Local Boundary Commission, *First Report*, to the Second Session of the First Alaska State Legislature, February 2, 1960. (Mimeo.)

[9]See Chapter III, p. 63.

[10]Article XV, Section 3 of the constitution stated that "Cities, school districts, health districts, public utility districts, and other local subdivisions of government existing on the effective date of this constitution shall continue to exercise their powers and functions under existing laws, pending enactment of legislation to carry out the provisions of this constitution. New local subdivisions of government shall be created only in accordance with this constitution." City laws were apparently exempt from the freeze applied to special districts, since cities were constitutionally recognized forms of local government. See Cease and Saroff, *op. cit.*, p. 89, and Alaska Legislative Council, *Report on School Support*, January, 1961, pp. 67-68.

From the very beginning, then, the "borough problem" has in large part revolved around borough relationships with school organizations and with the larger established cities upon which the independent school districts were centered. This was an extremely critical development in narrowing the broad concept of the borough as initially framed by the Constitutional Convention. All subsequent thinking about borough government and the borough laws themselves were shaped in fundamental ways by the limited purpose of "integrating" the special districts.

Borough Act of 1961

Two years of hearings and studies provided the basis for the Borough Act of 1961.[11] Under its terms, all special service districts, including independent school districts, were to be integrated with organized boroughs (or cities, in the case of certain public utility districts) by July 1, 1963. Standards for the incorporation of organized boroughs were defined in extremely broad terms, hardly more specific than those contained in the constitution itself. There would be but one unorganized borough covering all parts of the state not incorporated as organized boroughs.

The Boundary Commission was to accept local petitions for organized borough incorporation after review by the Local Affairs Agency. The commission would then hold hearings and approve, disapprove, or change locally recommended boundaries and governmental structures and powers. Finally, it would arrange for local elections on the incorporation or organization of the borough. The law provided two sets of options in organized boroughs: voters could select first or second class status and could adopt an elected chairman or appointed manager form of executive. Incorporated boroughs were required to assume responsibility for three areawide functions—education, planning and zoning, and property tax assessment and collection.

[11]Chapter 146, *Session Laws of Alaska*, 1961. In addition to the Boundary Commission hearings previously noted, the Local Affairs Agency and Legislative Council staffs prepared a study broadly reviewing local government history, problems and needs, reviewing the deliberations of the convention and its local government committee, and sketching various technical alternatives for legislative action. See Alaska, Legislative Council and Local Affairs Agency, *Final Report on Borough Government* (June 1961).

The following points should be noted: first, the 1961 Borough Act was predicated on the assumption that local desire to establish borough government would supply the force toward incorporation, despite the findings of previous Boundary Commission hearings that there was little enthusiasm in the state for the unknown and untried form of local government. There were also pockets of intense local opposition, particularly in areas outside independent school districts. Second, of the three areawide powers assigned to boroughs, only education was clearly a valued service. It obviously was a logical areawide function, since it was already being carried on as such prior to the borough act. In any case, education was to remain under the direction of elective school boards, subject only to general budgetary review and approval of borough assemblies. Though the borough might in the future assume additional areawide powers, this could occur only by a vote of the people, or by voluntary transfer of powers from the city.[12] Finally, the unorganized borough was defined simply as the residual category after organized boroughs were incorporated.

One borough was incorporated by local initiative before the 1963 deadline for the integration of special districts, but it contained no special districts itself. This was the small Bristol Bay Borough, located in rural southwestern Alaska. The people of this area were the first to take action and the only to do so voluntarily. This move was stimulated largely by their desire to gain local control of the state schools serving the area and to impose property taxes on the canneries located there. Here was a clear demonstration that, in the absence of adequate laws, standards, and guidelines, the borough form of government would be shaped largely in response to local political currents and controversies.

Petitions for incorporation had been received from two other areas, but the state agencies could not agree with the local interests on the drawing of boundaries. In these and other cases, the state invariably sought borough jurisdictions covering much larger areas than those proposed by local

[12] A first class borough is authorized to perform virtually any non-areawide (outside city) function it chooses, while a second class borough must submit each such proposed function to a vote of non-city residents. However, an obvious defect and inconsistency of the law is that a first class borough can assume additional areawide powers by transfer only, while a second class borough has the alternatives of transfer or vote.

borough study groups, but a rationale for the state's position was never clearly articulated. Local groups, on the other hand, generally sought to limit borough boundaries to the jurisdictions of established independent school districts. Education was the only important service to be performed by boroughs; the people served by the school districts were already accustomed to paying taxes to support them, and those outside the districts resisted the new taxation that would come if they were included within a more extensive borough area.

Many saw in the borough, as they understood it, a threat to their interests. And the state government, having no definite concept of what a borough should be other than a limited bundle of functions, was unable to cope with and successfully channel local responses. The way was thus open to an unrestrained game of political give and take. Those associated with independent school districts sought to minimize restrictions on their autonomy as the districts were incorporated into borough structures. Residents within the cities already were provided basic urban services, including education, and saw no need for another layer of government and taxation. And people served directly by the state, particularly by state-financed schools, saw little advantage in surrendering their privileged status.

Mandatory Borough Act of 1963

While the state agencies sparred with local study groups over boundaries, time was running out. The initial July 1963 deadline for borough incorporation and the elimination of special districts was approaching when the 1963 legislature met, and no final actions were in sight. As a result, the legislature passed the Mandatory Borough Act of 1963.[13] The act required the incorporation of boroughs in eight areas of the state containing public utility and independent school districts as of

[13]Chapter 52, *Session Laws of Alaska*, 1963. The Mandatory Borough Act passed the senate by one vote. For an account of the legislative history as viewed by the principal author of the act, see John L. Rader, "Legislative History," in *The Metropolitan Experiment in Alaska*, *op. cit.*, Chapter II.

January 1, 1964.[14] As an expedient for establishing boroughs, election district boundaries were to be used as borough boundaries, even though state legislators and administrators believed that the districts were in some cases too large and in others too small.[15] The areas concerned, however, had the option of initiating incorporation and proposing borough boundaries in the time remaining before the deadline. As an incentive to local action, the act permitted organized boroughs to select 10 per cent of the vacant, unappropriated, and unreserved state lands located within their boundaries. In addition, the law authorized nominal "transition grants." These provisions were almost an afterthought and had little discernible effect. The problems were still the definition of borough roles and functions and their boundaries. Now, with the 1963 act, an added problem was the state's method of bringing them into existence.

Four "local option" boroughs were established in 1963 elections under the threat of mandatory incorporation by the state, but incorporation proposals were defeated in the Fairbanks and Anchorage areas. These and two other boroughs were then mandatorily incorporated on January 1, 1964.[16] It should be noted that in these four cases the election district boundaries generally came closer to the desires of local groups than did the much more extended boundaries previously sought by the state agencies. The absence of defined standards in this and other borough matters could only reinforce the view that the state was acting arbitrarily.

With the exception of Juneau, voters in the eight areas chose second rather than first class status for their new boroughs. The apparent feeling was that, if boroughs had to be, let their powers be limited. Further, a majority of voters in all areas preferred an elected chairman to the appointed manager form of borough executive. It may be inferred that the rejected manager

[14]Since they contained no special districts, the Valdez-Cordova-Copper River Valley, Petersburg, and Wrangell areas were not included in the borough legislation, and no boroughs have since been established in these areas of urban Alaska.

[15]There was, however, little or no concern for answering the question—too large or too small for what?

[16]Local option boroughs were incorporated in the Ketchikan, Sitka, Juneau, and Kodiak Island areas. Boroughs were incorporated mandatorily in the Anchorage, Fairbanks, Kenai Peninsula, and Matanuska-Susitna Valley areas.

form was popularly associated with more active, modern—even aggressive—city government than was the chairman form.[17] Given this choice at the time, most borough voters preferred the apparently more passive and traditional elected executive, a local man unlikely to behave like a full-time official, unduly committed to his job and the expansion of his organization.

Roles of State Agencies

The whole period of debating and establishing the boroughs was one of pervasive state-local conflict and confusion. The state legislature failed to provide a solid base of law, and the local affairs and boundary agencies did not have the capacity to overcome local opposition and to bring about specified forms of local action.

The Local Affairs Agency and the Local Boundary Commission were established by the State Organization Act of 1959, and placed within the Office of the Governor.[18] During the initial years of statehood, priority was given to organizing the state government to assume new responsibilities devolving to it from the federal level, particularly in the areas of lands and resources, transportation, and public works. The problem of designing and implementing borough government took a secondary place in the beginning, though it was anticipated that the new local affairs and boundary agencies would prepare the way for later action by the state legislature. The Local Affairs Agency was to work closely with, and serve as staff to, the five-member Boundary Commission appointed by the governor. If properly organized, staffed, and financed, the agency might have been able to transform the ambiguous concept of the borough into concrete terms suitable for enactment into state law and administrative regulations and procedures.

[17]Local chapters of the League of Women Voters, for instance, were strongly pro-borough; they also urged adoption of the manager form. Also, most of Alaska's larger and, therefore, more active city governments operated under the council-manager plan. In such cases, the mayor typically plays a secondary and more passive role as council chairman and ceremonial leader.

[18]Chapter 64, *Session Laws of Alaska*, 1959.

Political and Administrative Constraints

The Local Affairs Agency was, however, not equipped to prepare and deliver adequate guidance to the state legislature. Similarly, after the 1961 act was passed, it could do little to assist local borough study groups, and could provide only limited staff support to the Boundary Commission during the critical period of borough formation. The more deeply the agency became involved in the borough formation controversy, the more it alienated city and school interests and residents of unincorporated areas who felt borough government would be a direct threat to them. And since boroughs had no political constituency and there was no developed borough interest, the Local Affairs Agency at no time had the political support needed to compete successfully for the increased staff, funds, power, and status that might have made it possible to remedy some of these cumulative deficiencies.[19]

The Local Boundary Commission had broad constitutional authority in setting and changing boundary lines. But, again, the law was not as explicit as it might have been—in this case, about the commission's authority to initiate and execute changes, subject only to legislative veto. It will be recalled that the authors of Article X had placed special emphasis on the role of the Boundary Commission in determining borough boundaries in the first instance, as well as in insuring their responsiveness to future growth and change, thus avoiding the rigidities prevalent in other states where county and other local boundaries were "frozen by constitution or tradition."[20]

The Public Administration Service had suggested that the commission would need to devote at least a year or two before any borough legislation was passed, "to developing a basic pattern for borough boundaries and making a thorough study of the standards and procedures applicable to the setting and alteration of city boundaries." It warned, however, that such matters would involve "what are essentially political decisions of the most

[19]The agency began in 1959 with one full-time employee and a budget of only $25,000. Its high point during the period of borough formation was 1963-64, when it had a budget of $110,000 and eight authorized positions. The agency operated at about this staffing and funding level throughout the 1960's.

[20]See Chapter III above; and Cease and Saroff, *op. cit.*, p. 52.

basic kind." Appropriate regard should, therefore, be given "expressions of judgment and sentiment by the public officials and citizens most directly concerned."[21] It would then be up to the legislature to make its own authoritative "political decisions" on these matters in an attempt to minimize—not eliminate—further argument in the statewide political arena.

Realizing the sensitivity of its work, the Boundary Commission proceeded with understandable caution from the beginning. Boundary setting involved tax equalization and other issues that were likely to stimulate strong reactions and inter-jurisdictional conflict at the local level. Thus, soon after its creation, the commission sought explicit authority from the state legislature to delineate the boundaries of organized and unorganized boroughs for the whole state.[22] But the legislature failed to respond at all to this request, thereby casting doubt on the actual extent and limits of commission authority for the determination of boundaries. Rather than follow this passive course, a more purposeful and aggressive commission might have attempted to proceed on the strength of its broad constitutional mandate, together with the general grant of legislative authority provided in the 1959 Organization Act. In this way, it might have pragmatically established its *de facto* authority for boundary actions, subject always to legislative veto, judicial review, and political conditions generally. However, having made its request for a specific grant of power, and *given the legislature's failure to act*, the commission chose to see its potential for independent initiative in the setting of borough boundaries as being critically limited.[23]

[21]Public Administration Service, *Proposed Organization of the Executive Branch—State of Alaska* (Chicago, 1958), pp. 146-47.

[22]See Local Boundary Commission, *First Report, op. cit.*, also, Cease, "Areawide Local Government," *op. cit.*, p. 27.

[23]This, of course, was a judgment that had to be made at the time; it is now impossible to state with certainty what an alternative course of action by the commission would have achieved. There can be little doubt, however, that a clear expression of legislative purpose and support would have been the most appropriate means of launching the commission's work.

Standards for Boundary Setting

On the question of defining the extent of the area to be served by a borough, the constitution is characteristically brief and general. It states that boroughs "shall be established . . . according to standards *provided by law*" (emphasis added) and that "the standards shall include population, geography, economy, transportation, and other factors."[24] The Local Affairs Agency and the Boundary Commission did little to improve or elaborate this statement during their first two years of study and hearings, and the legislature yielded to and sanctioned this omission with the Borough Act of 1961. The "standards" provided by that act were, much like the constitution itself, at a very high level of generality:

> (1) The population of the area proposed for incorporation shall be *interrelated and integrated* as to its social, cultural, and economic activities. . . .
>
> (2) The boundaries of the proposed organized borough shall conform *generally* to the natural geography of the area proposed for incorporation, [and] shall include all areas *necessary* and *proper* for the *full development* of *integrated* local government services. . . .
>
> (3) The economy of the proposed organized borough shall encompass a trading area with the human and financial resources *capable of providing an adequate level* of government services. . . .
>
> (4) The transportation facilities in the area proposed for incorporation shall be of such a *unified nature* as to *facilitate* the *communication* and *exchange necessary for the development* of *integrated* local government and a *community of interest*. . . . (emphasis added)[25]

The 1961 act thus left great discretion to the local affairs and boundary agencies. Viewed from the other side, it also provided them with little

[24] *Constitution*, Article X, Section 3.

[25] *Alaska Statutes*, Section 07.10.030, 1961.

legislative guidance and support for the borough formation task during the two years before the 1963 statutory deadline for the establishment of boroughs and the integration of special districts. Consequently, an undue burden was placed on state administrative agencies that were denied the legal base that could be provided only by the legislature. The circle had been completed: administrators (and legislative staff) had not developed the technical base for definitive legislation that could, in turn, give necessary political legitimacy to administrative implementation.

Ideally, the Local Affairs Agency, as staff to the Boundary Commission, would have prepared the ground thoroughly for boundary setting before the legislature enacted the initial borough law. A first pass was made at this problem with tentative boundaries drawn on a statewide basis. For this purpose, the broad constitutional criteria relating to population, geography, economy, and transportation were used without committing either the state or local interests to any permanent set of boundaries.[26] This action was to be followed by intensive studies carried out cooperatively by the state, local groups, consultants, and other appropriate parties in rural and urban Alaska.

As it turned out, the main "studies" conducted by the Local Affairs Agency for the Boundary Commission were performed by a small staff and on a limited, *ad hoc* basis in selected urban areas *after* enactment of the 1961 law. And rather than being in a position to assume the initiative after the law was passed, the commission could only react—mostly negatively—to local proposals for locating borough boundaries.[27] Since this series of encounters took place only after the enactment of the 1961 law, the

[26]See Local Boundary Commission, *First Report, op. cit.*

[27]The recommendations of the Local Affairs Agency to the Boundary Commission on the Kodiak Island Borough incorporation petition are illustrative of the approach taken: "The Local Affairs Agency recommends that the petition be accepted. The area proposed for incorporation needs a borough. It can support borough responsibilities. The Agency, however, also recommends that the Commission consider closely the suggested borough boundaries. Are the limited communities of the outlying Kodiak-Afognak Island areas part of the greater Kodiak community of interests? If they are, they should be included within the Kodiak Island Borough." The agency did not attempt to answer, or even provide a basis for answering, this question in its report. (Alaska, Local Affairs Agency, "Incorporation of the Kodiak Island Borough," Juneau, July 1963, p. 10.)

boundary question was approached not as part of, but in isolation from, the determination of the need for boroughs and their structure, functions, and powers.

While the Local Affairs Agency and the Local Boundary Commission played major, and very controversial, roles in the initial establishment of the boroughs, their actions since have been limited and sporadic. The Local Affairs Agency continues to give staff support to the Boundary Commission, provides limited technical assistance primarily to the smaller cities and villages of the unorganized borough, and reviews local property tax assessments. The Local Boundary Commission has used its authority quite sparingly in the period since the boroughs were incorporated; it has not played a significant role in controlling or initiating local boundary change.[28]

Conclusion

The task of defining borough government begun by the Constitutional Convention had been carried very little distance forward by 1961, when the state legislature passed the borough organic act. The convention, in effect, had said: "Here is a problem and a general idea for coping with it. Now it's up to the legislature and others to decide specifically what they want to do." The transitional PAS study emphasized the need to define clearly just what the borough was for, where it was needed, and how it would be supported before taking action to establish boroughs. This was not done, and in the continuing absence of explicit and authoritative definitions and strategies, there was little constructive channelling of conflict and debate as the state constitution was translated into law and then into practice.

The framers of Article X, in attempting to reconcile current and future urban and rural needs, did not attempt to decide upon or describe any concrete model of the borough they wanted to see created. They made it clear, however, that the two constitutional forms of local government would be boroughs and cities only, with special districts being absorbed into one or the other. The constitutional requirement for the eventual elimination of

[28]Cf. Cease and Saroff, *op. cit.*, pp. 52-55, 90, 138-41, 369-70. Also see discussion of these state agencies in Chapter VI below.

special districts led the 1961 state legislature to enact a law providing for the establishment of borough government, which, among other things, would assume the functions of the old special districts. The law left initiative for the creation of these new units to people at the local level. This legal initiative was not exercised locally, however, for the type of borough promoted by state agencies seemed to mean little more than that new taxes would be imposed and governmental controls extended. The proposed boroughs were also a threat to existing cities and school districts.

Proponents of borough government in the state legislature and elsewhere, however, believed that the local governmental system should be made to conform with the constitution, and that areas presently outside cities and special districts should be required to tax themselves for local services rather than receive such services "free" from the state. Further, questions were being raised about the legal status of school and other special districts, since existing laws governing their operations were apparently "frozen." But viewed from the local level, it appeared that the financial burden of government was being displaced from federal to state to local levels, without any increase in the means of support. The state at this time was in no position to provide significant financial support for local government. It appeared, therefore, that new local governmental structures were being promoted in the absence of concurrent development of the means to support them.

Opposition to the creation of boroughs forced major compromises in the design of this new governmental unit. As defined by law, the borough would perform only minimal functions—education and planning and zoning—and their boundaries would correspond more or less to the old independent school district areas. Thus, a "new" governmental unit was created, but the general pattern of local services would remain much as before. The only important changes were that new areas were brought under the jurisdiction of local government, additional people were taxed, and cities and school districts were faced with a new unit competing for funds, functions, and territory.

Never having had high expectations for their local governments outside the very largest cities, Alaskans were given no reason to expect much of boroughs either, and many were resentful of the manner in which these new structures were imposed upon them.

During the borough formation period of 1961-64, the local affairs and boundary agencies attempted to cope with divisive political issues left unresolved in the first instance by the Constitutional Convention and then by the state legislature. These agencies began to assume responsibilities and make decisions that were beyond their political as well as their administrative capacities, lacking both the legal authority possessed by a state legislature and the political influence of a governor, each then preoccupied with other problems of the statehood transition. In the absence of a plan for local government adequately defining objectives, means, and strategies for borough government, a series of *ad hoc*, often sharply disputed decisions were made.

Continuing local opposition to state proposals prompted the legislature to attempt to close off controversy over at least the incorporation issue with the Mandatory Borough Act of 1963. In fact, however, this action immediately set off a number of attempts to repeal the law: requests were made for a special session of the legislature during the last months of 1963; bills to repeal the 1963 act were introduced in the 1964 session; and a referendum petition was initiated. The legislative efforts failed, and the state Supreme Court in 1964 disallowed the proposed referendum on the grounds that the 1963 act was "local and special" legislation.[29] This, of course, was merely a legal and not a political victory for borough government.

[29]For an account of the repeal efforts, see Cease, "Areawide Local Government," *op. cit.*, pp. 89-116.

CHAPTER V.

BOROUGH GOVERNMENT AND POLITICS

Once in existence, boroughs were tolerated, but not embraced. They had been established as relatively limited governmental units and appeared to consist of little more than the familiar independent school districts. The functions of the borough were defined narrowly and provided little basis for eliciting general support, while provoking suspicion and defensive action on the part of established city and public school organizations and groups of rural area and other borough residents. Over the years, borough roles have expanded, generally at city expense. However, although public controversy over their incorporation has abated, most remain essentially limited units still the objects of local taypayer resistance and still in conflict with cities and school districts. The borough predicament has led in a number of urban areas to borough-city unification movements. Here, both the defenders and opponents of borough government have begun to find some common grounds for new and potentially far-reaching changes in the local governmental system. But they are also engaging in new forms of the older struggle to define a system that might conform with their conflicting conceptions of the public interest.

Structures, Functions, and Finances

There currently are ten organized boroughs and most conform to essentially the same basic structural, functional, and financial patterns. Eight are boroughs of the second class, with their functions specifically limited to those provided by state law and to additional ones acquired piecemeal through either voluntary transfers from the city or through local elections. The concept of the second class borough—a government of limited powers whose expansion is subject to the checks of local referenda and city self-preservation—was an adaptation to two basic conditions: the general resistance to boroughs and limited state and local resources. Exceptions to the prevailing pattern are the Juneau and Haines boroughs. The Juneau

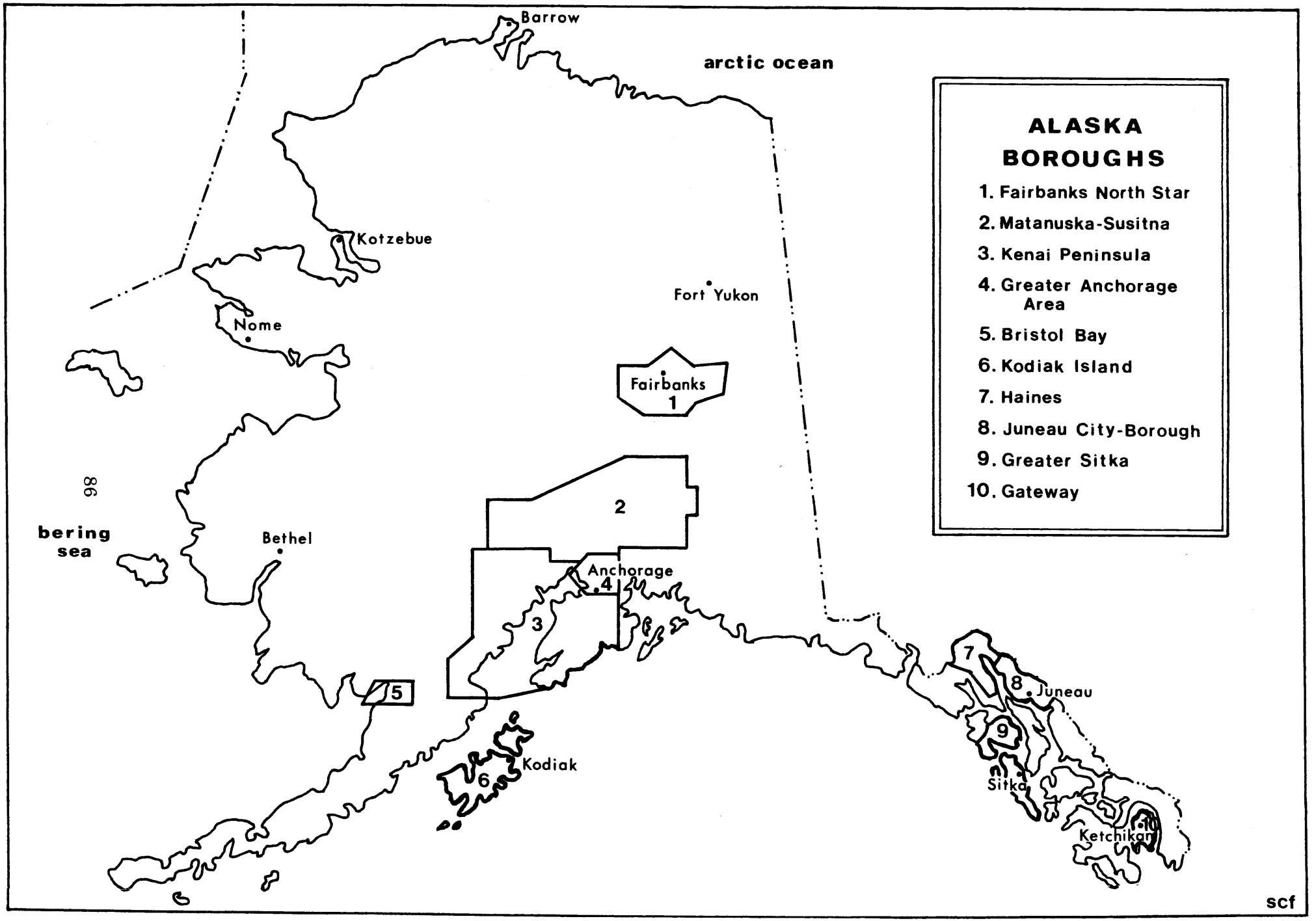
borough, initially incorporated as a first class borough, combined with the cities of Juneau and Douglas to form the new City-Borough of Juneau by adopting a home rule "unification" charter in early 1970. The Haines Borough was incorporated in 1968 as a third class, or "school borough," under a special amendment to the borough law that had the effect of permitting the Haines area to bring its independent school district into conformity with Article X of the constitution without assuming any other aspects of borough government.

Second Class Boroughs

Overall responsibility for administrative affairs in second class boroughs rests with the borough executive and his staff. While elected borough chairmen may introduce ordinances and veto assembly actions, these powers are denied to the manager, who is appointed by the assembly and serves at its pleasure. Bristol Bay is the only second class borough with an appointed manager.

Assemblies range from five to eleven members, depending on the population of the borough. Home rule and first class cities within the borough are represented on the assembly by one or more city councilmen chosen by the city councils. Borough residents outside these cities elect their own representatives directly to the assembly. As in cities, borough elections are at large and non-partisan, and assemblymen serve three-year staggered terms. (In the Anchorage and Fairbanks boroughs, assemblymen are elected at large but must reside in designated sections of the borough.) Non-city areas have a majority of assembly members, but where city populations are larger than those outside, weighted voting is used in the assembly so that the city majority prevails on "areawide" issues defined by law. On the other hand, this voting arrangement provides that non-city assemblymen may prevail on votes concerning non-areawide (outside city) matters.

Boroughs are responsible on an areawide basis for the three mandatory functions of education, tax assessment and collection, and planning and zoning. Certain additional areawide powers such as health protection, dog control, and libraries have been assumed in most boroughs. This, however, has not generally resulted in any significant increase in the actual scope and


ALASKA
BOROUGHS
1. Fairbanks North Star
2. Matanuska-Susitna
3. Kenai Peninsula
4. Greater Anchorage Area
5. Bristol Bay
6. Kodiak Island
7. Haines
8. Juneau City-Borough
9. Greater Sitka
10. Gateway
arctic ocean
bering sea
Barrow
Kotzebue
Nome
Bethel
Fort Yukon
Fairbanks
Anchorage
Kodiak
Juneau
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impact of borough government. Non-areawide (outside city) powers of boroughs tend to be concentrated in service areas. (See Table V-1, Characteristics of Boroughs, 1970.)

Most boroughs have one or more service areas in which higher tax rates pay for special services such as road maintenance, fire protection, and water and sewer facilities. Establishment of a service area, exercise of powers, and any bonding must be approved by a majority of the voters residing in the particular area. The borough is responsible for administering service area programs and for assessing and collecting the additional taxes. Boroughs contract with cities for the provision of services in some areas.

Each borough has a separately elected school board. The school board appoints the school superintendent, adopts a budget for operating and capital expenses, hires architects and selects building designs, and is responsible for routine maintenance and operation of the school plant. The borough assembly reviews the total school budget, and has approval authority with respect to the local revenue share. The assembly also selects school sites, approves the board's selection of architects and building designs, and is responsible for the actual construction and major rehabilitation and repair of the school plant.

Juneau and Haines

The home rule City-Borough of Juneau has a mayor elected at large and a manager appointed by the assembly. The mayor serves as presiding officer of the assembly; he exercises no special powers as mayor. Assembly members are elected at large, but must reside in specified election districts. All elections are non-partisan. As a home rule unit of government, Juneau is empowered to perform a full range of municipal functions. Service area arrangements are similar to those described above for the second class boroughs; the difference is that, in Juneau, they not only serve suburban and other localized needs, but they take the place of the cities of Juneau and Douglas, which were dissolved upon unification. School board structure and powers were not formally changed by unification in Juneau; the board retains its semi-autonomous status.

TABLE V-1

CHARACTERISTICS OF BOROUGHS, 1970

Borough	Pop.	Area (square miles)	Additional Areawide Powers	Non-Areawide Powers	Service Areas
Greater Anchorage	123,600	1,500	Health, Sewers, Dog control, Air Pollution	Library, Fireworks control	6
Bristol Bay	1,100	600	Fire, Police Dog control, Dump sites	None	None
Fairbanks-North Star	44,100	7,500	Flood control, Dog control, Hospital, Library	None	2
Haines	1,500	2,200	None	None	None
City-Borough Juneau	13,300	3,108	No borough-type limitations on areawide and non-areawide powers, or official distinction between then. However, the municipality performs functions on both an areawide and service area basis.		3
Kenai Peninsula	14,100	14,994	None	None	4
Ketchikan (Gateway)	9,500	1,242	Airport	None	2
Kodiak Island	9,200	4,500	Health and Sanitation	None	2
Matanuska-Susitna	6,400	22,909	Parks and Recreation	Refuse control	4
Greater Sitka	6,000	2,871	Hospital, Dog control	None	1

In the third class Haines Borough, the assembly also serves as the school board. The presiding officer of the assembly acts as the borough chief executive, but he exercises no special powers in the latter capacity. The borough performs areawide education and tax functions only and has no service areas. It is essentially the old independent school district with a new name.

Borough Finances

The mainstay of locally generated revenues in boroughs is the property tax, which provides the largest single share of revenues from local sources. All boroughs (and cities, except fourth class) are authorized to levy both real and personal property taxes. However, much less use is made of personal than real property taxes, especially in the more developed communities of the state.

Property taxes have in recent years accounted for about one-third or less of aggregate borough revenues, and this proportion is falling. State support for public education has accounted for another third and is rising,[1] Federal transfers, primarily for "federal impact" schools, has amounted to 10 or 15 per cent of total borough revenues. The remaining 20 per cent of overall revenues has been accounted for by various other state supports and local sales and use taxes. (See Table V-2.) Five boroughs levy sales taxes, and these provide significant revenues where they are used.[2]

[1]In the 1970 session, the state legislature doubled the amount of state support to local school districts for operating expenses under the public school foundation program, which now covers at least 90 per cent of "basic educational need," according to a formula based on school enrollment and other factors. In addition, the state now picks up about half of local district capital construction costs. Therefore, in some places, the combined state and federal shares of local school budgets exceeds 90 per cent of actual total costs of local education.

[2]Forty cities and five boroughs levy sales taxes of 2 and 3 per cent; seven of the cities are within boroughs, resulting in rates of 4 and 5 per cent. In each of these cases of borough-city tax overlap, different sales rax rates are levied by the borough and city respectively. Like the boroughs, cities outside the boroughs are bordered and surrounded by areas without sales taxes.

TABLE V-2

AGGREGATE BOROUGH REVENUES AND EXPENDITURES, 1968

Revenues	Percentage (est.)	Expenditures	Percentage (est.)
Property tax	33%	Education	86%
Sales and other taxes	7	Debt service	5
State support for schools	34	Financial admin.	2
Other state transfers	10	General control	2
Federal transfers	13	Health & welfare	2
Other revenues	4	Other functions	3

SOURCES: Borough budgets and financial statements, 1968.

As is evident in Table V-2, less than half of aggregate borough revenues is locally generated. And on the expenditure side, it is obvious that education—even allowing for differences among boroughs—is overwhelmingly the borough function.[3] Accordingly, locally generated revenues as well as federal and state supports are directed primarily to the education function. Thus, in the borough governmental system, most of both fiscal inputs and service outputs are linked to the semi-autonomous educational component of that system. Consequently, the capacity of the borough to deliver benefits to the community in the form of valued services, and to take whatever credit may be due, is limited by the relative fiscal independence and separate electoral status of the school board. Moreover, the problem of restricted borough functions extends beyond the educational program.

[3]If the costs of finanacial administration, general control, and debt service are allocated to all functions in proportion to their share of expenditures, then 96 per cent of total borough expenditures in 1968 would be accounted for by education alone.

Limitations on Borough Functions

In its local government report to the Alaska Statehood Committee in 1959, the Public Administration Service (PAS) held that "the substance of local government is . . . in the services it renders to the community. These are its only justification for existence."[4] PAS had little to say, however, about what these services specifically should be in the case of boroughs. The reluctance to prescribe a single formula for the allocation of functions between state, borough, and city levels is understandable. The allocation of functions would depend on the concommitant distribution of tax resources and recognition of widely varying needs, problems, and capabilities within the state. Conditions affecting the allocation of functions and resources, moreover, would change over time. Thus, "the State will necessarily be engaged in the continuing process of drawing a shifting line between state and local functions and responsibilities, including the responsibility for financing governmental activities whether carried on by state or by local agencies."[5]

Yet, we have seen that the Borough Act of 1961 did prescribe a uniform set of functions for all boroughs, and the Mandatory Borough Act tied this prescription to specified areas whose principal common demoninator was that they contained independent school districts in 1963. And it was on the organizational base of the school systems, and the major cities with which they were associated, that borough government was imposed. The definition of borough functions was thus limited by the attempt to impose a uniform formula on very different areas of urban and rural settlement, the resistance by established school organizations to complete absorption into the new borough structure, the interest of cities in preserving their own functional and territorial integrity, and opposition from local taxpayers. The borough system established by the state was a compromise of these conflicting forces, but it did not succeed in eliminating them. Nor was the borough initially equipped to attract new support from the community by virtue of any distinctive services it could provide.

[4]Public Administrative Service, *Local Government Under the Alaska Constitution*, by John E. Bebout (Chicago, 1959), p. 75.

[5]*Ibid.*, p. 9.

One of the borough's three legislatively required areawide functions is land use planning and zoning. This is probably viewed by most people more as a control or police function than as an important urban service.

The borough also serves as a property tax assessment and collection agency. While this is a necessary, if politically unattractive, housekeeping function, it does not help any governmental unit build a constituency. Most of the taxes are collected to support local public education (the third mandatory function), but school boards, with their own electoral and fiscal bases, continue to operate much as they did before boroughs were established. The most satisfied "customers" of the borough have typically been residents of service areas who generally prefer to buy public services piecemeal from the borough rather than risk annexation to the city.

To acquire additional areawide powers, the second class boroughs depend either on voluntary transfers from cities or on favorable votes of the people. There have been several successful transfers and votes, but, for the most part, they have involved relatively minor functions. The people generally have not voted additional major powers to a borough unless the need for areawide action to meet urgent problems is clear and unmistakable—for example, flood control in Fairbanks, or, perhaps, sewer services in Anchorage.[6] Nor have cities generally transferred powers to the borough unless the loss was not considered significant and the gains from spreading the tax base were obvious—for example, dog control, libraries, and hospitals.

An unsuccessful attempt was made with the Mandatory Borough Act of 1963 to remedy the functional imbalance bequeathed by the 1961 borough law. The principal author of the 1963 act sought to include police, fire, road,

[6]In Fairbanks, the prospect of losing a multi-million dollar, federally financed, flood control project was a major factor affecting the outcome of a 1968 election in which the voters rejected a proposal to reclassify the Fairbanks North Star Borough as a third class, or school borough. In Anchorage, voters authorized the borough to assume areawide sewer powers in 1966, but the borough and city were unable to agree on the reallocation of attendant fiscal, legal, and administrative authorities and obligations for more than three years thereafter.

health, economic development, and other powers in the borough package. He found little support for such a move, however. In the first place, only one small rural borough had been created (Bristol Bay), and borough government was still but an undefined concept. The need for boroughs had not been adequately justified, and there was nothing—neither experience nor even authoritative studies—to show their capability of performing even the minimum functions assigned to them by law in 1961. Second, cities opposed further encroachment on their traditional responsibility for the performance of local services. Third, state functional agencies, particularly the highway department, objected to any dismantling and parceling out of any part of their programs. Finally, borough advocates and sponsors lacked significant political support; there were no borough constituencies.[7] Thus, insofar as borough functions were concerned, the 1961 act remained unchanged,[8] and boroughs have even had to struggle for control of the two service functions assigned by law.

Education and the Borough

The borough was assigned the responsibility for public education, yet the school districts retained electoral autonomy and have, compared to arrangements during the territorial period, even increased their fiscal independence. Territorial law had required elected school boards to submit proposed tax measures and budgets to city councils for approval. This applied both to the city school districts and to independent school districts with jurisdiction extending beyond city limits. Borough assemblies inherited budget approval authority from the cities, but school interests have since succeeded in narrowing the scope of this authority by limiting the assembly's authority to the local revenue share of the budget only. The assembly cannot directly control the state and federal fund portion of the school budget.

[7]Cf. Ronald Cease and Jerome R. Saroff, eds., *The Metropolitan Experiment in Alaska* (New York: Frederick E. Praeger, 1968), pp. 93ff., 103-4.

[8]The land selection incentive noted above (Chapter IV, p. 75.), however, provided a basis for a borough and land management and development function, but it has been used principally as a means of raising revenues. In the Matanuska-Susitna Borough, land sales have been a significant source of revenues.

There was some question at the time of statehood whether separate school boards would be needed at all after borough assemblies were organized. Particularly if education was to be the only significant borough function, it appeared to some that there would be little justification for maintaining school boards.[9] On the other hand, education officials took the position that boroughs might be created simply as reconstituted independent school districts, called "school boroughs," with school boards as their local governing bodies. Their view was that education was a state, not a local, responsibility, and that the state Board of Education should take the initiative in defining school borough boundaries and establishing the new school units.[10]

The interest of school officials in ensuring their independence, accompanied by the freeze on special district laws and pressures from the national bond market to clarify the status of local school organizations, led to efforts by the state Board of Education to establish school boroughs at an early date. The board drafted legislation for this purpose in 1961.[11] Concurrently, the Local Affairs Agency and the Boundary Commission were preparing their own proposals for borough legislation. The Borough Act of 1961 attempted to compromise the conflicting school and "general government" concepts of the borough. Eventually, however, a "school borough" was in effect created with the incorporation of the third class Haines Borough in 1968, through amendments to the borough law supported by education officials as well as by anti-borough interests elsewhere in the state.

[9]PAS, *op. cit.*, p. 64-65.

[10]See Erick L. Lindman, and others, *A Foundation for Alaska's Public Schools*, Report of a Survey for the Alaska State Board of Education (September 1961), p. xvii-xxi.

[11]See Alaska, Local Affairs Agency, *Alaska Local Government*, Vol. I, No. 8 (December 1961).

The school organizations have continued to press for greater autonomy and have succeeded in modifying school and borough legislation to reflect their interests. In addition to the mentioned restriction of budget approval authority, school officials have sought other restrictions on the assembly's role in school design, construction and rehabilitation, and in fiscal management.[12]

Within the current statutory framework, room still exists for maneuver by both borough and school interests. The borough assembly may use even its restricted budget approval authority to influence the total mix of educational programs to be financed. At the same time, the school board and administration may extend their effective authority further into the selection of sites and architects, construction activity, and plant rehabilitation and repair by claiming greater expertise and on the strength of their routine daily supervision over all school affairs.[13]

The state legislature did not provide clear-cut and authoritative definitions of borough authority for the educational function—definitions that would minimize sources of conflict inherent in a system of dual responsibility for a single function. Even though it often occurs that critical details of operation are neither easily foreseen nor directly susceptible to treatment by a legislature responsible for writing general laws, the legislature did not empower local authorities to resolve such issues for themselves. It is, in any case, clear that educational interests and the ideology of school separatism have had considerable influence in determining the content of the laws that place the borough in an ambiguous position between school districts and cities.

[12]Cf. Cease and Saroff, *op. cit.*, pp. 59-64, 232-34.

[13]A product of successful school board negotiations with the borough assembly for control over such matters is Resolution No. 32 of the Greater Anchorage Borough, adopted December 21, 1964. The resolution is reprinted in Cease and Saroff, *op. cit.*, pp. 425-30.

Planning and Zoning

Similar structural problems exist in the case of planning and zoning. The 1961 Borough Act gives planning and zoning to the borough among its "exclusive" powers. That is, once the borough assumes this or any other areawide power, no city within the borough is permitted to exercise that power. The authors of the 1961 act did not distinguish between local or municipal planning, on the one hand, and areawide or regional planning, on the other. They appear to have viewed planning in its traditional form, dealing with two-dimensional designs for land use, with control over land development primarily through zoning. This is widely agreed to be an "areawide" matter that does not respect local boundary lines. Since this concept of planning was one with which few disagreed in principle, there was less resistance to transferring the planning function to the borough. Indeed, it was the only service function other than education assigned to borough government by state law.

Cities, however, retain advisory planning and zoning commissions, from whose membership appointments are made to the borough commissions. "Authority" to plan, in the sense of making official land use designs, was no significant loss to the city. But zoning, as a means of allocating land and restricting its use, was another matter. This clearly involves power to distribute real benefits and costs among competing interests. Thus, while boroughs were granted the power to zone, cities were permitted by law to retain their own zoning *adjustment* boards. Cities consequently have the authority to undercut borough-wide zoning ordinances. On the related issue of building and safety codes, the law is silent. Such codes also involve tangible powers affecting economic values. In part for this reason, cities have sought to retain the authority to adopt and administer these codes. Their argument is that such codes are not properly viewed as adjuncts to the borough's planning and zoning power, but rather as an extension of city police powers. Despite an adverse opinion by the Attorney General,[14] cities have retained the code authority where they have chosen to do so.[15]

[14] Alaska, Opinions of the Attorney General, No. 5, 1966.

[15] Cf. Cease and Saroff, *op. cit.*, pp. 158, 282, 316, 335.

Another problem of borough-city planning relationships is that urban planning involves designs for specific development projects as well as broader land use schemes, and an urban renewal project is generally the most significant public development activity carried out in the city. Yet, the borough has the planning authority for the city's development project. The state agency responsible for local planning services and urban renewal programs must therefore get the borough's permission to serve the city and is obligated to work with the borough planning staff. In the hopeful words of the state's Attorney General, "the system is a carefully balanced one which demands a great deal of cooperation between city and borough."[16]

Thus, although the borough presumably has "exclusive" planning and zoning authority, effective arrangements are anything but clear-cut. They are, in part, the outcome of practical, and often unstable, compromises in the writing and interpretation of statutory provisions. Complicating the issue in this case is a concept of planning that does not account for differences in scale or level. Consequently, political and administrative accommodations must be reached at the local level in order that even routine planning tasks—at project, neighborhood, city, and areawide levels—can be accomplished. By denying planning authority to the city, the borough act tended to complicate rather than clarify borough-city administrative relationships—it helped create a structure within which conflict was bound to occur, and one that has in some cases operated to eliminate city planning functions altogether. But the planning conflict only reflects larger differences between the city and borough.

City vs. Borough

It was apparent from the start that a potential stalemate between cities and boroughs was built into the new local governmental system set forth in the constitution. Boroughs and the cities within them were very likely to compete with each other for territorial jurisdiction over urbanizing areas outside city limits.[17] To service these places, the borough would need to acquire additional powers or create special service areas. If additional

[16]Quoted in Alaska, Local Affairs Agency, *Alaska Local Government*, Vol. VII, No. 7, October 1964, p. 4.

[17]See PAS, *op. cit.*, pp. 63-73.

areawide powers were sought, these would be at the direct expense of city authority, since areawide powers assumed by the borough are denied to the cities. If non-areawide (outside city) powers were sought, or if service areas were created, these could constitute blocks to city expansion. Moreover, borough assemblymen from outside the city could be expected to resist city annexation cutting into their constituency. And if, at the same time, annexation meant that assemblymen from the city would acquire the weighted vote advantage because of an increase of the city population (to a majority of the borough population), the resistance would be all the more intense.

Assembly Structure

Since the city is represented on the assembly by city council members, the ground is already prepared for city-suburban splits and polarization because of the assembly's own internal structure. This can directly channel and reinforce the internal divisions that would in any case exist because of the normal political reality of competition and conflict among the different interests that assemblymen are elected to represent.[18] Direct city representation, as required by the constitution,[19] enhances certain naturally unstable aspects of the political process that have already been built into the borough structure. Another method of city representation (e.g., borough sections, at-large, or some combination of both) would not mean the elimination of conflict. Indeed, it is possible that confrontations between completely separate city and borough governments might even be more intense in the absence of assembly "screening" and internal stalemating. However, these confrontations would more likely occur in political arenas larger than the assembly structure, often forcefully presenting themselves for more definitive resolution at the state level.

[18]Cf. Paul Ylvisaker, "Some Criteria for a 'Proper' Areal Division of Governmental Powers," *Area and Power*, Arthur Maass, ed. (Glencoe, Ill.: The Free Press, 1959), p. 39.

[19]Alaska, *Constitution*, Article X, Section 4. This, it should be noted, is the only instance in which the article prescribes a specific feature of internal organization, a practice otherwise avoided, and deliberately so, by the article's framers.

Annexation vs. Service Areas

As described above, the state was confronted with the problem of "integrating" all areas served by special districts. City annexation of all, or even a large part, of these surrounding areas appeared to be politically out of the question. Even in the case of a small public utility district completely encompassed by the city of Anchorage, opposition to city annexation was intense, although the annexation was finally accomplished. In this case, the Boundary Commission exercised its constitutional prerogative of ordering the annexation, subject to legislative veto, without a vote of the residents of the district. Its action was upheld by the state Supreme Court.[20] This was a relatively simple case of a special district that was required under the constitution to be integrated into a city or borough. Completely surrounded by Anchorage, it was an obviously practicable and logical move for the city to annex it. On the other hand, the Boundary Commission has been most respectful of political realities in cases where suburban residents, often fearing that the cost in new taxes will outweigh the benefits of additional services received (or, in the case of city residents, the converse), object to city annexation. Certain groups of outside-city residents have also been extremely possessive of their identity and autonomy, much in the tradition of suburban and rural separatism, with central cities often cast in somewhat morally suspect roles.[21]

At the same time, the borough service area has been available as a vehicle for meeting limited service needs of developed enclaves outside the city. In the short run, at least, this tends to neutralize whatever attraction city annexation may have for those seeking more and higher quality urban

[20] *City of Anchorage vs. Fairview Public Utility District No. 1*, Alaska Supreme Court (1962).

[21] Although Alaska's "central cities" are really small and medium-sized towns by U.S. standards, such anti-city sentiments often seem to be magnified. This is, in part, the result of Alaska's peculiar socio-economic characteristics as described in Chapter II above, as well as traditional American attitudes toward the "city," which also reflect the geographic distribution of socio-economic interests.

services.[22] With the borough service area, residents outside the city may select the particular mix of services they wish and be assured of paying, through differential mill rates, only for those additional services directly received in their immediate area of residence. For this reason, however, service areas also fragment the borough. The separate suburban enclaves develop a built-in resistance to unified or consolidated area tax and service structures, and service area status insulates their residents from the cost of city facilities and services that they share or benefit from, perhaps most obviously as owners of property whose value is enhanced simply because the city is accessible.

So, following the line of least relative resistance, boroughs were established in large part to solve the special district problem. Critical by-products of this action were the blocking of significant annexation activity by the cities within them and, in several cases, the fragmenting of the urban area. This outcome was foreseen by PAS in its 1959 report: "The conclusion is inescapable that it would often be more difficult to make substantial adjustments in local boundary lines after borough governments had been organized than before."[23] The same observation may apply to borough service areas as well as to cities. Public utility districts are, in effect, being reconstituted around the state's larger cities.

The Weighted Vote

Traditional forms of competition between cities and boroughs thus find continuing expression in annexation and service area issues. They are also apparent in the struggle within borough assemblies over the use of the weighted vote, which, in turn, is related to the problem of distinguishing "local" from "areawide" decisions.

When a first class (including home rule) city or cities have a majority of the borough population, the votes of their assemblymen are weighted by

[22]In longer run terms, the limited tax bases of special service areas make it impractical for service areas themselves to finance a broad range of urban services, Thus, as service needs increase, annexation could become a more attractive alternative, assuming that the borough itself does not acquire the additional areawide or non-areawide powers.

[23]PAS, *op. cit.*, p. 67.

TABLE V-3

BOROUGH ASSEMBLY APPORTIONMENT
AND WEIGHTED VOTING

Borough	Assembly Size	H.R. & First Class Cities	Non-City	Weighted Vote
Anchorage	11	Anchorage-5	6	No (since 1969)
Bristol Bay	5	None	5	No
Fairbanks	11	Fairbanks-4 North Pole-1	6	No (since 1970)
Haines	5	Haines-2	3	No
Juneau (city-borough)	9	None	n/a	n/a
Kenai	5	Kenai-2 Seward-2 Homer-1	None	No
Ketchikan	7	Ketchikan-3	4	Yes
Kodiak	5	Kodiak-2	3	Yes
Matanuska-Susitna	5	Palmer-2	3	No
Sitka	5	Sitka-2	3	Yes

dividing the number of all other assembly seats, plus one, by the number of all assembly seats apportioned to the first class city or cities. This assures city assemblymen of a one vote advantage if they vote as a bloc. The weighted vote applies only to areawide borough functions enumerated by law: (1) education, (2) planning and zoning, (3) assessment and collection of taxes, (4) additional areawide powers acquired by transfer or by vote, (5) levying areawide taxes for areawide functions, and (6) incurring indebtedness on an areawide basis for areawide functions.[24]

The applicability of the weighted vote becomes critical, of course, where city and non-city assemblymen disagree on direction of borough policy, and it can affect procedures as well as substantive outcomes. Thus, in the Juneau borough (before unification), the weighted vote was held to apply only on main motions of ordinances and resolutions before the assembly. This ruling of the assembly presiding officer (non-Juneau) was appealed by the Juneau assemblymen, but the vote on the appeal was itself non-weighted, with the result that the three Juneau assemblymen were outvoted by their six colleagues from outside the city.[25] In the Anchorage borough (when the weighted vote rule was still in effect), the Spenard service area adjacent to the city limits of Anchorage was created against the wishes of city officials, who sought to annex it. However, the creation of a service area is not classified as an areawide matter where the weighted vote would apply, and the Anchorage assemblymen were outvoted on the issue.[26]

The weighted vote does not apply to any non-areawide function of the borough. Yet, the difference between "areawide" and "non-areawide" or "local" is often not clear, particularly in boroughs centering on an urban

[24]Assembly apportionment and weighted voting provisions were part of the Borough Act of 1962 (*Session Laws of Alaska*, Chapter 110, 1962). Also, see Cease and Saroff, *op. cit.*, p. 45-46. If one first class city has the majority of the population without counting the population of any other first class city in the borough, only that one city's assemblymen get the weighted vote.

[25]*Ibid.*, p. 289.

[26]Cease, "Areawide Local Government," *op. cit.*, p. 195ff. This action was in apparent conflict with the constitutional provision that "a new service area shall not be established if, . . . the new service can be provided . . . by annexation to a city." (*Constitution*, Article X, Sec. 5.)

core that includes a city and adjacent suburban developments. The establishment of service areas is one instance of this. Non-areawide water and sewer powers is another. Water and sewer development outside the city may affect the city's own prospects for expansion and influence the governmental and fiscal structure of the entire area. Moreover, although zoning is an areawide power, in those cases where the assembly sits as a board of zoning adjustment, the attorney general has ruled that the weighted vote does not apply. The attorney general held the assembly to be acting in that capacity as an "administrative," not a "legislative," body, and weighted voting was held to apply in legislative matters only. The same ruling governs assembly action as a board of tax equalization.[27]

Thus, the ambiguity of the areawide-local distinction is compounded by the attempt to separate legislative and administrative actions. Accordingly, in the judgment of two students of borough government, the weighted vote provision "is mechanically and psychologically a failure."[28]

The apportionment scheme and weighted voting are attempts to reconcile criteria of population and area in the allocation of legislative power. It is also an attempt to accommodate the claims of an elusive "area-as-a-whole," city, suburbs, outlying enclaves, and rural areas. To the extent that this arrangement departs from the one-man, one-vote principle—and it appears that it substantially does—it is not only a mechanical and psychological failure, but unconstitutional. Indeed, the city of Juneau legally challenged the apportionment and voting scheme on constitutional grounds and won favorable court decisions in 1968 and 1969.[29]

[27] Alaska, Opinions of the Attorney General, No. 7, 1965.

[28] Cease and Saroff, *op. cit.*, p. 46.

[29] *City of Juneau vs. Greater Juneau Borough*, Superior Court, Juneau, No. 65-317 (1968). This ruling was based principally on the U.S. Supreme Court's "Midland County (Tex.)" decision of 1968, which applied the "one-man, one-vote" criterion to county governing boards. Thus, members elected from districts must represent approximately equal numbers of people. In December 1969, after a rehearing by the Superior Court, essentially the same decision was reached; in contrast to the earlier ruling, however, the door was left open for some unspecified form of weighted voting. For background on the Juneau case, see Cease and Saroff, *op. cit.*, pp. 286-91.

The "Unification" Movement

There is no easy way out of the impasse that is evolving between the boroughs and the major cities within them, a condition represented in the extreme by the Anchorage area in 1968-69. There, borough and city governments were engaged in direct conflict over questions of functional and territorial jurisdiction and allocation of the costs of local facilities and services. Though an extreme case, this situation is not unique to Anchorage; instances of such conflict have occurred in Fairbanks, Juneau, Ketchikan, and other boroughs. As areas surrounding the city are developed, and new urban services and facilities are required in these developing areas, this problem is certain to grow. The two forms of local government will increasingly be placed in competition with each other in claiming jurisdiction over these places, dividing the tax base, and providing needed services to them.

The basic problem is that, in several boroughs, two forms of local government are attempting to occupy political and physical "space" where there is need and room only for one. *This is so particularly where a borough centers on an urban core served by a well established city* (Anchorage, Fairbanks, Sitka, Ketchikan, and Juneau before unification). The case for permitting only one local governmental unit in these urban areas could have been made very clear. Much less clear, however, was the rationale for what in fact was done: a second layer of local general government, the borough, was imposed on the existing municipal base. *In other regions, where a borough could serve the common needs of several smaller areas of urban settlement, as well as the places between and beyond them, there was more room for both borough and city governments* (Kenai, Kodiak, Matanuska-Susitna).

Current attempts to remedy the problem of dual local government center on the concept of borough-city "unification," under which the two governments would become one. As authorized by the state legislature in 1967, a borough and all cities within it may "unite to form a single unit of home rule local government."[30] In this way, it is hoped, borough-city conflicts, duplication, and overlap might be eliminated, thus living up to the "ideal" model considered by the delegates to the Constitutional Convention.

[30] *Alaska Statutes*, Title 29, Chapter 85, as amended in 1968.

The proponents of unification typically point to the waste involved in maintaining two units of government for the same area and the accompanying administrative confusion and service gaps. The argument is that a truly unified areawide government could more economically and effectively meet service needs in a single social and economic area. Further, the wrangling that goes on between city, borough, and school officials and administrators could possibly be eliminated. In principle, these objectives find widespread support. It is much more difficult, however, for city, non-city, and school interests to agree on concrete means of achieving these objectives. The easiest way is to devise new forms for substantial preservation of the *status quo.*

Under unification, the new city, borough, or borough-city government has the task of integrating the purposes and roles of city, suburban service areas, and rural area governments all within one structure. Real differences among the residents of these areas in matters of service needs, localized perceptions and attitudes, socio-political orientations, and actual experience with urban area governments are, however, certain to remain. Where these differences are associated with patterns of settlement that reinforce separatism and localized identities, it becomes more difficult for a genuinely unified governmental unit to satisfy all distinctive local community interests within its area of jurisdiction. These interests relate not only to the provision of local facilities and services, but also to the sense of communal identity and control over one's immediate environment.[31] It thus appears that the most critical issues that unification charter writers have to resolve concern modes of representation and apportionment and the establishment and use of service areas. Consequently, a scheme for "unification" that finds acceptance in all parts of a borough may actually consist of a number of semi-autonomous service areas with assured checks on tax and service decisions. Moreover, there is nothing inherent in unification, *per se*, to prevent school districts from maintaining or even enhancing their independence from the new general government that results.

[31]The opposite tack is borough-city separation, as once proposed by some Anchorage city officials. Where the "unifiers" may overlook legitimate differences and localized interests and needs within an area, the "separatists" discount socio-economic interdependencies, attainable economies of scale, and the feasibility of significant forms of local government reorganization.

Structural change, whether or not of the "unification" variety, must be viewed in terms of its consequences, not simply for an "areawide public interest," but for each of the major competing interests in the area. Can city residents be assured that they will not bear the cost of extending new services to outlying areas? Since they already receive relatively high levels of service from their city governments, what new benefits will consolidation bring them? Why should non-city residents, particularly those in outlying areas, who have traditionally resisted identification with the city, take a different view of a consolidated government that may be dominated by its urban center? Should non-city residents bear a share of repaying the city's bonded indebtedness? Are the various political and administrative officials and employee groups of existing governments willing to risk their current status, advantages, and positions? Since school boards and administrators have already achieved a great deal of autonomy from other governmental units, what new advantages or disadvantages might they see in a reform which unites city and borough?[32]

These questions scarcely touch upon administrative "economy and efficiency"—the terms in which most structural reform arguments are couched. The experience of local government reorganization elsewhere amply demonstrates that expected economies of structural reform are almost always elusive and often unmeasurable. Whatever the structure of local government, expenditures are rising because of the pressures of population and economic growth and the demands from the community for more and better local services. The major problems of local reformers are in fact political rather than technical. Reformers may nonetheless be required to answer the "right" technical questions, particularly those concerning the prospective incidences and costs of change.

In Juneau, a unification charter commission was elected in 1968. The first proposed charter was defeated by a three-to-two margin in a 1969

[32]The Anchorage borough school board took a public stand against the unification charter proposed for adoption in that area in late 1970. They were against charter provisions that granted to the borough executive a line item veto over the school budget, and that included non-teaching personnel of the school system under the executive's authority.

election, losing in both city and non-city areas of the borough.[33] However, the commission had another year from the date of the first referendum in which to try again. In early 1970, the voters of the Juneau area adopted the revised unification charter in a close vote.[34] Designed to attract the widest possible support, the charter incorporates basic elements of the *status quo ante:* each of the previous cities is designated as a separate service area; new taxes and service decisions in each area are subject to voter ratification; and school board structure and most powers remain fully intact and are given the blessing of the home rule charter.[35]

Juneau area voters have most clearly achieved certain "efficiency" objectives by eliminating duplicative governmental overhead. The longer term question is whether they have also taken an effective step toward "unified" local government, given the divisions that still exist, albeit in new and perhaps more tractable form. Local voters and officials in other parts of the state will undoubtedly be influenced by developments in Juneau.[36]

Regional Boroughs and Urban Boroughs

As suggested above, two recognizable types of organized boroughs now exist in Alaska: the *regional borough*, generally covering an extensive area

[33]The unification authorization act requires concurrent city and non-city majorities. Where they are two or more cities within the borough, as in the Juneau-Douglas case, their votes are combined into a single "city" total.

[34]The charter carried well in the city of Juneau, which neutralized the decisively negative vote in the city of Douglas. There was an extremely close division in the non-city area.

[35]There were, however, almost immediate clashes between the new borough-city assembly and the school board; this was largely because the new assembly was determined to exercise its budget review authority to its full extent, as could an assembly in any other borough, and insisted on fiscal integration, as provided in the charter.

[36]In 1969, voters in the Anchorage area elected a unification charter commission; the charter election was held in October 1970, as the final draft of this study was being completed. The charter passed in the city of Anchorage, but was rejected overwhelmingly by non-city voters in the borough. Sitka voters decided also in the October 1970 elections, to establish a charter commission. Borough and city governments of the Fairbanks area established a unification study group in early 1970.

TABLE V-4

REGIONAL AND URBAN BOROUGHS, 1970

Regional Boroughs

Borough	Area (sq. mi.)	Pop. of Borough	Pop. of Major City	No. of Other Cities	Pop. of Other Cities
Kenai Peninsula	14,994	14,100	3,934	5	4,731
Kodiak Island	4,500	9,200	3,660	3	686
Matanuska-Susitna	22,909	6,400	1,122	3	100 (est.)

Urban Boroughs

Borough	Area (sq. mi.)	Pop. of Borough	Pop. of Major City	No. of Other Cities	Pop. of Other Cities
Anchorage	1,500	123,600	46,137	3	135
Fairbanks	7,500	44,100	14,336	1	254
Juneau*	3,108	13,300	6,002	1	1,237
Ketchikan	1,242	9,500	6,703	1	145
Sitka	2,871	6,000	3,327	1	35

*Before unification.

including several widely dispersed small communities, incorporated and unincorporated, and the *urban borough*, having a population concentrated primarily in a single urban core area, characteristically overspilling the boundaries of a central city. It could be anticipated that the local governmental system will evolve in the two directions of unificiation and regionalism associated with these basic physical and socio-economic patterns.

Table V-4 lists the eight boroughs that can be identified as conforming to one or the other of the two borough models.[37] Anchorage, Fairbanks, Juneau, Ketchikan, and Sitka are urban boroughs. Kenai Peninsula, Kodiak Island, and Matanuska—Susitna are most clearly regional boroughs. The distinctive population distribution characteristics of these two types of borough give rise to two quite different sets of problems, organizational requirements, and distributions of functions.

The regional borough is characterized by a multi-focal population distribution, with no urban concentration having a majority of the total borough population. In the case of the Kenai Peninsula Borough, the population is distributed in widely separated incorporated communities. In the Matnauska—Sustina Borough, most people reside in unincorporated settlements dispersed through extensive portions of the borough. The concerns of the regional boroughs include resource development (e.g., recreation), transportation, and borough support of local (i.e., city) efforts. Prime responsiblity for urban services can rest with individual cities within the borough, while service areas provide an instrument for meeting special needs. There is maximum opportunity in this type of borough for the evolution of a clearly defined, minimum-conflict relationship between the borough and the cities it includes.

Since all of Alaska's major urban areas already have borough governments, it would appear that any new boroughs would be best defined in terms of the regional rather than the urban model. They should, in other words, be established wherever needed as genuinely second, facilitative levels

[37]The two boroughs not included are Bristol Bay and Haines. Neither conforms well to any consistent borough model, whether of the urban or regional type, nor even to the very general legal standards for boroughs set forth in the 1961 borough act.

of government vis-a-vis the cities they may contain, and as first level service units for residents of rural and unincorporated areas.

The urban borough is characterized by a substantial urban core, generally consisting of one or two cities, plus their suburban areas. The extent of non-urban area coverage varies greatly, with Anchorage and Ketchikan boroughs being relatively small (1,500 and 1,240 square miles, respectively), while others cover much larger areas (Sitka, 2,900 and Fairbanks, 7,500 square miles). Outside of the single urban center, most of the borough is undeveloped, even though there may be a few settlements in the outlying areas. In each of these boroughs, the central urban area includes at least three-fourths of the total population. In urban boroughs, the essential needs, both inside and outside of incorporated cities, are for urban services: water, sewer, garbage collection, fire protection, libraries, and the like. (Education is, of course, a basic function in all boroughs.) Where a borough hinterland exists, it is generally not related directly to the urban center, and representational schemes tend to prevent its receiving any significant attention from the borough assembly.

A series of variants of the following possibilities are likely to occur within urban boroughs in the future:

1. continuation of central city services and minimal urban services on the part of the borough;
2. provision of urban services by the borough outside incorporated cities, either directly or through service areas;
3. incorporation of additional cities to provide urban services;
4. gradual assumption of areawide services by the borough;
5. expansion of the central city through annexation to include the entire urban area; or
6. borough-city consolidation or unification.

A rational course of development—one that local officials may actively pursue and that state officials can reinforce—would be toward some form of unification. This could happen gradually over time or more immediately through the legal unification option.

It is significant that all of the areas where official steps toward unification have been taken to date are those corresponding to the urban borough model. This suggests that both the intensity of borough-city conflicts and the amount of interest in the unification solution are, to some extent, functions of borough settlement and local government organizational patterns. These factors should have been, but apparently were not, given at least as much weight as the presence or absence of an independent school district when the initial determinations were made about the need for and locations of boroughs as second units of local government in different areas of the state.

On the other hand, and without necessarily implying a conscious strategy, it now appears that creation of borough governments in these areas was a means of circumventing the political barriers to city annexation and of opening the way toward eventual elimination of one of the two governments. This could happen either over the long term through borough acquisition of city powers one by one, or more directly through borough-city consolidation ("unification"). Because city officials have objected to the slow erosion of their powers, and perhaps see possible advantages in wholesale consolidation, the unification route has become increasingly attractive to them. At the same time, anti-borough forces both within and outside the cities may see unification as a means of eliminating the borough, or at least of reducing local taxes in their particular areas of residence. In any case, a unified borough-city with home rule powers can be considered as another form of the extended city that was not possible to achieve in most urban areas before boroughs were established.

Elimination of the separate conflicting jurisdictions in a single urban area is potentially a matter of state concern, and state policy and legislative programs need to take into account both local preferences and state requirements. Where city-borough consolidations do occur, it will be important for the state to examine resultant boundaries and governmental characteristics. Since the objective of unification is the establishment of a single government for the urban area, the inclusion of non-urban areas in such a consolidated borough or city would require state review, as would the exclusion of related urbanized and urbanizing areas. Depending on the circumstances, the state may find it appropriate to place non-urban portions of consolidated jurisdictions into another borough, or to detach an

urbanized or urbanizing area from a neighboring borough and add it to a new urban unit. Further, the situation may arise where the state would find it desirable to classify the unified urban government as a city (rather than as a borough or city-borough) and include it within a larger regional borough formed through a combination or expansion of previously existing boroughs. In any case, the state will have an interest both in changes taking place at the local level and in assuring that boundaries are established or changed in conformance with constitutional and legislative criteria, as well as local needs.

While it is generally desirable that matters of government organization and functions be determined locally, past experience of borough-city conflict over annexation and the creation and operation of service areas indicate that the state Boundary Commission should review local action and play a mediating role here as well. Its purpose would be to ensure that appropriate incorporation and annexation standards are met, or that new service areas are warranted and, if so, are properly constituted. This is particularly important with respect to developments in the highly urbanized boroughs.

While the service area may frequently provide the vehicle for the delivery of one or more local services, proliferation of formal service units within a single urban area may actually work to retard provision of services in accordance with the area's growth needs. This is most likely to occur where service areas merely reflect current patterns of services desired or opposed by residents of a particular area at a particular point in time. The fact is that change and growth do not occur by discrete service area units, but some services are required and desired on different area and time scales than are others. Thus, a multi-service area that is in the path of urban development may prove a less than satisfactory instrument of either local service or local control. More adaptable tools available in such urban areas would be the use of service charges in accordance with services received, differential taxation based on the property benefits, and the establishment of community planning and development boards that could provide a more comprehensive overview of changing development patterns and service needs.

Such planning and development boards could play a particularly important role in larger urban areas, especially where city-borough consolidation may be effected or city boundaries expanded. The boards

could focus on matters of concern to identifiable communities with the borough or city (e.g., Mountain View or Muldoon communities in the Anchorage area), identify local objectives and needs, represent the interests of the community before the area's legislative body, and generally act to further neighborhood and community interests. In all of these ways, localized community boards, or similar non-governmental or quasi-official bodies, could be a more effective device than limited purpose service areas. Moreover, they would likely grow in importance as urban areas expand and response to differential requirements of sub-areas becomes more difficult to achieve through centralized administration alone.

Thus, the borough can, in effect, be a regional government or urban area government. In the latter case, it may not be much more than an extended city, even if it includes a smaller city within its boundaries. As a distinctive unit of government in Alaska, the borough is most likely to conform to the regional model. In either case, increased opportunity should be provided for borough adaptation to actual settlement patterns and to related local organizational and functional needs. Under the constitution, the responsibility for laying the basis for adaptation rests with the state.

Conclusion

In contrast to the "unified" local governmental system envisioned by the Constitutional Convention and lately pursued by local reform groups, the experience since statehood has been characterized mainly by conflict among borough, city, and school interests contending for relative advantage and autonomy.

Some of the sharpest borough conflicts have revolved around education and the school board-borough assembly relationship. Between cities and boroughs, there has been much contention over annexation and the use of service areas. There have also been substantial differences between boroughs and cities over the allocation of planning and zoning responsibilities. All cases point to a general condition that shapes the boroughs' relationships with cities and school organizations: the borough acts are products of *ad hoc* purposes, political compromises, and partial decisions. The law at a minimum insured the boroughs' claims to certain specified functions. But, even in these instances, it did not specify the extent and limits of borough

authority relative to that of the city and school board. The way was thus left open for further conflict and competition, with adjustments and accommodations being made where possible. Generally, the results have depended on the particular alignments of forces, the effective claims and counter-claims, present in individual boroughs at a given time. When accommodations cannot be reached locally, and the same conflicts persist, then efforts tend to be made to change the law itself or to challenge it in the courts.

Efforts are now being made to eliminate dual local government in urban boroughs by means of "unification." It appears that major obstacles to effective unification lie in the differences between city, suburban, and rural service needs and political interests within borough areas that may in some instances be too large and diverse to function as cities, but too small to serve as regional governments between the state and its local governments. Where a borough centers on a single prominent urban core, and its own area of jurisdiction does not include extensive rural areas and several outlying settlements, unification has emerged as a likely solution to the problem of dual local government. The fact remains that Alaska's urban areas are themselves still of insufficient size or complexity to need or support two competing levels or adjacent units of *local* government. It does appear, however, that there are public problems and needs that distinctive local and *regional* units of government might fulfill. Where a borough covers a large area that includes several local communities, it appears that it can play a distinct role as a regional unit.

Apart from the alternatives of unification and regionalism, however, the borough in its present form is less than an authoritative areawide government, local or regional. The following points show to what extent actual outcomes have fallen short of desired goals:

1. Boroughs were to perform those functions "best" carried out on an areawide basis. At various times, police and fire protection, road construction and maintenance, health, economic and resource development, water and sewer systems, and other functions have been suggested as potential borough responsibilities. Borough laws, however, specified but one significant borough function—education—and, even here, authority

was to remain largely in the hands of a separate school board and administration. Just as the school organizations have resisted absorption into the borough, the cities and various state agencies have opposed attempts to split off programs or share significant program responsibilities with borough governments.

2. Cities were to transfer functions to the borough in accordance the dictates of economies of scale. For the same reason that the initial assignment of borough functions was limited by city interests, subsequent voluntary transfers from city to borough have not materialized. Cities have had little taste for a policy of dismantling themselves bit by bit.

3. Service areas were to be created and altered as needed to fill any remaining service gaps between city and borough. In practice, there is great short-run incentive for maintaining service areas as relatively autonomous units, which, in turn, fragment borough organizational, administrative, and fiscal patterns. Service areas have emerged as effective blocks to annexation by cities, and they are increasingly used by local groups to preserve their autonomy and separate identity within borough areas outside the cities.

4. The state was to control local government boundary changes that could be made objectively in response to changes in urban population and economic growth patterns. Just as the Boundary Commission was unable to substitute its authority for local determinations in the initial setting of borough boundaries, so it has since played a minor role in controlling subsequent alterations of borough and city boundaries. As in pre-statehood days, most significant boundary changes are subject to several procedural checks and to elections in the areas immediately affected. The commission has not been in a position to counter or withstand the political pressures brought to bear, particularly when proposed boundary changes are perceived as affecting values associated with local autonomy, suburban separatism, or tax and service independence.

Borough government, beginning with several handicaps, has emerged as a partially defined product of compromise, and the burden of effective reform must be shared by the same state legislative and executive authorities that brought them into being. While neither the authority nor the policy making and administrative resources of the state are unbounded, it does have relevant capabilities, including greatly increased fiscal leverage, which can be applied to problems of local government structure and performance.

CHAPTER VI

STATE POLICYMAKING FOR LOCAL GOVERNMENT

Local government conflicts and deficiencies in Alaska have been due much less to the lack of an adequate constitutional base than to problems and weaknesses of state government legislation and administration. This is one of the essential conclusions that can be drawn from the preceding chapters. This chapter assesses the state's fiscal and administrative capacity to improve its record, and suggests certain changes in state policy and organization for local and regional affairs.

Financing State Government

Basic to any analysis of the state role is the extent of state capability to support local functions. Statehood did not lead automatically to the kinds and scale of economic development that most Alaskans hoped for. The transfer of legal authority from federal to state levels was not accompanied by the means to make development happen. Alaska's economy remained heavily dependent on government and various supportive and tertiary service industries. Mining and fishing were on the decline. The military construction boom of the early 1950's had been spent. Although resource deposits, including oil, were known to exist, no reliable assessments of their commerical value had been made except in certain limited areas. Thus, the state, from the first years of statehood and through most of the 1960's, faced persistent financial crises as federal agency responsibilities were transferred to it. The major challenge to state government was not to initiate bold new schemes of development during the early years of statehood, but simply to maintain its own solvency. Clearly, the state was in no position to provide significant financial support to its local governments. As indicated in Table VI-1, the new state of Alaska remained heavily dependent on federal aid, with 60 per cent of the revenues in the state's 1960 budget coming from federal sources.

TABLE VI-1

SOURCES OF STATE REVENUE, FISCAL YEAR 1960

	Amount (in 1,000's)	Percentage
Federal Receipts	$ 61,800	59.5%
State Taxes	24,400	23.5
Other State Sources	17,600	17.0
Total State Revenue*	$103,800	100.0%

*Includes about $3 million in federal mineral lease rentals and royalites, state bonus sales, and state production taxes on oil and gas.

SOURCES: George W. Rogers, *The Future of Alaska* (Baltimore: The Johns Hopkins Press, 1962), p. 198; State of Alaska, Department of Natural Resources.

During the 1960's, the proportion of revenues from the state's own sources climbed steadily upward, with individual income taxes being a major component. Still, as shown in Table VI-2, nearly two-fifths of the 1969 state budget was made up of federal government funds. Most of this federal support has been for highway construction and public education programs. The table also shows income from oil and gas leases, rentals, royalities, and production taxes. From this source, income rose from about $3 million in 1960 to $34 million in 1969. Most of this income derived from petroleum development activities in the Cook Inlet area south of Anchorage. Table VI-3 breaks these oil and gas revenues down into their principal components.

TABLE VI-2

SOURCES OF STATE REVENUE, FISCAL YEAR 1969

	Amount (in 1,000's)	Percentage
Federal Receipts*	$ 75,358	38.0%
State Taxes*	55,712	28.1
Oil and Gas Revenues	34,390	17.3
Other Sources	33,055	16.6
Total State Revenue	$198,515	100.0%

*Excluding revenues from oil, gas, and coal rentals and royalities from federal lands, and oil and gas production taxes, all of which are included in oil and gas revenues.

SOURCES: State of Alaska, *Sources of State Revenue*, 1969-75 (Juneau, 1970).

The Alaska Statehood Act had authorized the state to select 103 million acres of land from the federally owned public domain, which included, outside of the cities, virtually all of Alaska's 365 million acres. In addition, the state was authorized to receive 90 per cent of the revenues from federal oil and mineral lease sales, rentals, and royalities. This source of federal support became increasingly important during the 1960's, but of greatest significance was the land grant provision, which permitted the state to select acreage believed to overlie rich oil deposits on Alaska's North Slope. It was under these lands that oil was discovered in unprecedented commercial quantities in 1968, with the result that the state financial situation was revolutionized.

TABLE VI-3

OIL AND GAS REVENUES, FISCAL YEAR 1969

	Amount (in 1,000's)	
Oil and Gas Production Taxes	$ 5,619	
Mineral Lease Rentals	3,317	
Mineral Lease Bonuses	791	
Oil Royalties	16,567	
Gas Royalties	317	
Federal Rentals and Royalties	7,779	
Total Oil and Gas Revenues	$34,390	
Total State Revenues		$198,515
Percentage Oil and Gas Revenues		17.3%

SOURCE: State of Alaska, *Revenue Sources, 1969-1975* (Juneau, 1970).

In September of 1969, the state held a lease sale covering North Slope lands that resulted in oil company bids totalling $900 million. To this sum will be added future royalty and severance tax payments, as well as receipts from additional lease sales, which are likely to amount to hundreds of millions of dollars of *annual* state income by the end of the next decade.[1]

[1]See George W. Rogers, "Alaska's Economy in 1969," *Alaska Review of Business and Economic Conditions*, Vol, VII, No. 6 (University of Alaska, Institute of Social, Economic and Government Research, December 1970); also, Rogers, "International Petroleum and the Economic Future of Alaska," draft of article to appear in *Polar Record.*

State-Local Fiscal Patterns

There obviously are enormous implications in these developments for the future of Alaska. Already apparent are expectations for greatly expanded state government programs and increased state assistance to local governments. Indeed, a large share of the increase in the first state budget after the September 1969 North Slope lease sale was accounted for by expanded support for public education and other local government programs. In 1967, the total amount of state transfers to local governments was $28 million; in fiscal 1971, the amount may exceed $90 million, an amount almost as large as the total state budget in the first year after statehood. (See Table VI-4.)

TABLE VI-4

ALASKA STATE TRANSFERS TO LOCAL GOVERNMENTS 1967, 1971

	Estimated Amounts (in 1,000's)	
	1967	1971
District School Support	$12,000	$75,000
Revenue Sharing	———	4,500
All Other	9,000	11,000
Totals	$28,000	$90,000

SOURCE: Author's computations.

Of particular importance for state policy making for local government in the years immediately ahead will be decisions about the allocation of functions between state and local levels, as well as the amounts of state financial aids to local governments, the types of local functions supported, and the conditions attached to state aids.

State-Local Distribution of Functions

In Alaska, it is the state, rather than the local units, that carries the major burden of government. The state employed more people and spent more than twice as much as all of its combined local governments in 1967. This is reflected in the percentage distribution of state and local government general expenditures, as shown in Table VI-5. In 1967, only 29 per cent of combined state-local expenditures in Alaska was accounted for at the local level, and the ratio has been quite stable throughout the 1960's. In contrast, for the United States as a whole, the percentage of combined state-local expenditures accounted for at the local level was 65 per cent in 1967. Hawaii is the only other state with state-local expenditure ratios comparable to Alaska's.[2]

TABLE VI-5

ALASKA STATE-LOCAL EXPENDITURE RATIOS, 1962-67

	1962-63	1963-64	1964-65	1965-66	1966-67
State	68.2	72.8	72.9	66.2	70.9
Local	31,8	27.2	27.1	33.8	29.1

SOURCE: U.S. Bureau of the Census, *Governmental Finances in 1963-1967.*

[2]Hawaii's history, geography, and settlement patterns have resulted in significant centralization of public services at the state level, most notably education. The state department of education administers all public schools in a unitary state system. Hawaii has fewer local government units than any other state, with three counties, one city-county (Honolulu), and 16 soil conservation districts. See U.S. Bureau of the Census, *Census of Governments: 1962*, Vol. I, Governmental Organization (Washington: U.S. Government Printing Office, 1963), p. 276.

Welfare, health, and highway programs are primarily state financed and administered in Alaska, and the state is also directly involved in administering and financing local housing, urban renewal, and public education programs. Only the largest urban areas in Alaska have had the capacity to finance and administer essential public facilities and services.

The degree to which the state shared expenditures for specific functions with local governments in the late 1960's is shown in Table VI-6 below. The

TABLE VI-6

ASSIGNMENT OF FUNCTIONS BETWEEN ALASKA STATE AND LOCAL GOVERNMENTS, 1967

	Amount (in millions)		Percentage	
	State	Local	State	Local
Education	$ 34.5	$53.2	39%	61%
Highways	116.1	3.1	97	3
Public Welfare	9.5	—	100	—
Health & Hospitals	7.7	1.2	87	13
Police Protection	2.2	2.3	49	51
Fire Protection	—	1.9	—	100
Sewerage and Sanitation	—	2.3	—	100
Other	65.8	32.7	67	33
TOTALS	$235.8	$96.1	71%	29%

SOURCE: U.S. Bureau of the Census, *Governmental Finances in 1967.*

table suggests the further point that, even with recent increases in state expenditures, the combined state-local effort still leaves several areas of service neglected or underfinanced, particularly health and hospitals, sanitation, and police and fire protection.

It is yet to be determined how financial and administrative responsibilities for new and expanded public programs will be divided between state and local governments. For example, should the state take on the full responsibility for health programs, or should it attempt to build up local capacities by making grants to local governments? Should the financing and administration of sanitation and pollution control programs be done exclusively by the state, or should certain responsibilities within this functional area be shared with local governments? Should the state assume the full responsibility for the financing of local public education programs? These are the kinds of "distribution of activities" questions that need to be answered before the state commits itself unreservedly to specific forms of local grants-in-aid.[3]

State Grants to Local Governments

To the extent that the state chooses to support locally administered programs, it can, by attaching various conditions to grant funds, require and

[3]For discussion of how one Canadian province, New Brunswick, dealt with this issue, see Frank Smallwood, "Reshaping Local Government Abroad," *Public Administration Review*, Vol. XXX, No. 5 (September/October 1970), p. 521-30; H.J. Welan, *The Development of Local Government in New Brunswick* (Fredericton: University of New Brunswick, 1963); and Ralph R. Krueger, "The Provincial-Municipal Government Revolution in New Brunswick," *Canadian Public Administration*, Vol. XII, No. 1 (Spring, 1970), p. 51-99.

In New Brunswick, it was decided in the early 1960's that the provincial government would assume direct responsibility for basic *human services* programs—education, health, welfare, and justice—while local governments would retain responsibility for *physical services*, including fire protection, water supply and others. In addition to financing and administering basic human or social service programs, the province provides partial financial support for locally administered physical services associated with property. Tax structure reforms accompanied these developments, with the province entering directly into the real property tax field.

induce changes in the structure of local government and help improve the quality of local administration. For the most part, state aids have not been used to accomplish more that the *ad hoc*, though desirable, purposes of local service augmentation, primarily within the public school system. Until recently, no attempt was made to diversify and use state aids to induce any significant changes in local government structure, functions, or performance other than within the limited and separate categories of assisted services.

State financial aid policies should be designed to eliminate current disincentives to city incorporation or annexation and to provide positive incentives for performance of local functions by cities and regional functions by regional boroughs. Regional functions could include education, planning, health, road maintenance, and others, as well as functions in service areas not subject to incorporation or annexation. In urban boroughs, most functions may be better performed by one unit on an urban areawide basis, the expectation being that the borough-city structure in such areas is moving toward a single government scheme. Lack of positive state policies has been an important factor contributing to local resistance to boroughs, city incorporation, and annexation. Some laws have favored creation of boroughs and use of service areas where an established city could meet local service needs. If the state is to pursue positive policies, it needs to re-examine all provisions of law and fiscal relations (e.g., tax and revenue sharing) that tend to favor or penalize one form of government or another without a sound basis in public policy.

As indicated, the great bulk of state aids is accounted for by the local school district support program. (Most of these funds, in turn, are expended by borough school boards having jurisdiction in the most populated and fastest growing areas of the state.) Other grant programs have been much smaller, and a number of them (e.g., special education, libraries, hospital construction) have depended on federal funds passing through the state, with state control and supervision. Very little state money has been provided for hospitals, waste treatment works, and similar facilities that require heavy capital outlays. Rising costs, new demands, and backlogs in these service areas, as well as in education, point to the fiscal pressures that have built up in Alaska's local communities.

The expanded school support program has, of course, helped reduce these pressures to some extent, but there are also strong local pressures to

lower real property taxes at the same time. Local officials face a dilemma in attempting to respond to this demand, since demands are also being made for increases in the types, amounts, and quality of local services. Not surprisingly, Alaskans are now looking to the state to provide substantial funds for a variety of local service programs, and the "revenue sharing" program enacted by the state legislature in 1969 is viewed as the means for such funding.[4]

The revenue sharing program provides varying "per capita" grants to support local police and fire protection, air and water pollution control, land use planning, parks and recreation, and transportation facilities. It also provides "per mile" grants for road maintenance and "per bed" grants for health and hospital facilities. Except for the health facility grants, there is no requirement that the funds must be expended for any particular local function. Instead, the local government must show only that it is actually performing the types of functions to which the grants are keyed. In this way, it is intended that local governments assume new functions, that all qualifying localities raise existing service levels, and that local budgetary flexibility be enhanced. Or so it would seem. The legislature also included in its 1970 amendments a statement of intent that local property taxes be reduced "in reasonable proportion to the amount of state aid received by a local government for a given fiscal year." It is not possible to measure the actual effect of this proviso on local budgets, and the definition of "reasonable proportion" is, of course, subject to anyone's interpretation.

Another questionable feature of the program in its present form is that it may unduly favor the larger and, therefore, wealthier communities by allocating most funds in direct proportion to population (per capita grants). If this program is eventually to benefit local governments throughout the state, some measure of local need and fiscal capacity should be incorporated into the grant formula,[5] and appropriations would have to be increased substantially.

[4] *Alaska Statutes*, 43.18, as amended in 1970. This act is reproduced in Appendix D.

[5] See Appendix E for discussion and illustration of alternative formulas for determining the allocation of state aids under an equalization policy.

In the context of the present discussion, a very important criticism of the revenue sharing program is that it pays only minimal attention to potential impacts on local government structure. Except in the case of funds for police protection, there is inadequate discrimination between the types of eligible local units; that is, duplicative or competing service area, borough, and city activities may be funded under this program. To the extent that this does happen, borough-city conflict would be exacerbated, unnecessary service areas may be created, and existing local boundary lines may tend to harden.

Effective use of the revenue sharing or any similar program depends upon a rational scheme for the allocation of functions between governmental units and levels. The state has yet to decide what services should be assigned to which governments. Thus, for example, the larger cities in organized boroughs provide a wide range of traditional local services. These include law enforcement and road maintenance functions that the state often provides in organized boroughs outside of cities, as well as in other parts of the state, where virtually no local taxes are levied for these and other services. In some measure, the revenue sharing program helps equalize costs, but the state policy of providing services (and now money) in such a way as to discourage city annexation or city-borough consolidation aemains largely intact. State financial aid to local governments is likely to increase substantially during the next few years. Unless this fiscal leverage is used differently than in the past, the state may inadvertently increase the existing structural problems of the local government system.

The local purposes for which state funds are provided, eligibility requirements, and allocation formulas—all are features of state aid programs that can have a profound influence on local government structures, capabilities, and performance. The issue is not whether the state should influence local government in these ways, but how it will do so. State policy can emerge as haphazard by-products of *ad hoc* bargaining and individual program decisions; it can take the form of an explicit ordering of means designed to achieve stated objectives; or it can—and generally does—reflect some combination of both. There are often political and technical reasons why the ideal of rationality may not be given priority in legislative and administrative policy making, but there is no avoiding the influence of state government on local government through its financial aid and service policies.

Planning, Policy Making, and Program Coordination

The emphasis of this study is on state responsibility for borough government, but the fiscal revolution in Alaska has dramatized the need for greatly strengthened planning, policy analysis, and program coordination mechanisms covering the full range of state responsibilities.

The state units that should be primarily concerned with local government policy are the Local Affairs Agency, Local Boundary Commission, and Division of Planning and Research in the Office of the Governor. The following discussion deals briefly with the roles of these agencies as they relate to the general problem of state policy making for local government.

Local Affairs Agency

As envisioned under the state constitution, the Local Affairs Agency was to play the leading role in state-local relations in Alaska; the Local Boundary Commission was to apply the key checks and controls. Results in both cases have fallen far short of initial expectations. Both agencies concentrated on the borough formation problem during their first five years, taking positions beyond their political and administrative capacities, and discrediting themselves in the process. A consequence was that they were handicapped in subsequent relations with local governments because of the reputations they acquired as trouble makers.

Soon after winning a legal victory in the state Supreme Court in 1964,[6] the Local Affairs Agency reopened the borough controversy by proposing, in 1965, an overhaul of the municipal, borough, and education codes. This was an effort, primarily at the initiative of the agency itself, to undertake a badly needed revision. In the context of this effort, the agency tried to strengthen

[6]See Chapter IV, p. 83.

the borough at the expense of cities and school districts.[7] It proposed to consolidate the codes and amend them to give the borough greater control over school operations, planning and zoning, and related matters affecting borough relationships with cities and school boards. Not only did the agency's attempt fail, but in the process the school interests won amendments to borough and education codes that had the opposite effect of strengthening school boards at the expense of boroughs and further insulating the boards from borough assembly control.[8]

As viewed by the Public Administrative Service (PAS) in the transitional report to the Alaska Statehood Committee in 1959, the "local government agency" mandated by the constitution should have been established as a Department of Local Affairs in the executive branch.[9] This view had also been held by some of the delegates to the Constitutional Convention, but there was broader agreement that the constitution was not the place to specify the organizational form and status of a state agency.[10] As outlined by PAS, a Department of Local Affairs would be charged with:

1. administering local planning, housing, urban renewal, and other assistance programs;
2. supervising service areas and other local government activities in unorganized boroughs;
3. providing technical assistance to local government;
4. serving in a staff capacity to the governor; and
5. taking broad administrative responsibility for intergovernmental relations and program coordination.

[7]See Ronald C. Cease and Jerome R. Saroff, *The Metropolitan Experiment in Alaska* (New York: Frederick A. Praeger, 1968), p. 60. Cease was director of the Local Affairs Agency at the time. He and Saroff write that "the agency made the decision" to propose basic revisions of the codes. The agency's proposed revision, they continue, "was well received by the boroughs but was bitterly attacked by the State's largest cities and by the school districts, which considered the measure too pro-borough. Consequently, the agency became a lightning rod, drawing the ire of city and school district officials, but receiving support and appreciation from the borough."

[8]Ibid., pp. 61-64; also, Chapter V, pp. 93-94.

[9]Public Administrative Service, *Proposed Organization of the Executive Branch—State of Alaska* (Chicago, 1958), pp. 137-47; and PAS, *Local Government Under the Alaska Constitution* (Chicago, 1959), pp. 24-32.

[10]See Chapter III, pp. 53-55.

We have seen, of course, that the governor and the state legislature chose not to establish such a department. And, as it has evolved, the Local Affairs Agency has been unable to fulfill even its more modest assignments because it has not been empowered or equipped to do so.

It is now clear that the functions of an effective "local government agency" would need to include continuing assessment of the impact of federal and state programs on local government; the allocation of functions and sources of revenue among state, borough, and city governments; standards, requirements, and incentives in state financial aids to local governments; and the changing patterns of conflict and cooperation among boroughs, cities, and school districts in organized Alaska.

As the administrative center of state policy making for local government, the Local Affairs Agency has a long and demanding agenda of outstanding business before it. If it is to function effectively, it needs to take the broadest possible view of what constitutes local affairs, but without sacrificing the detail and depth needed in good policy analysis. As a policy analysis staff, it should assess critical problem areas, identify and evaluate alternatives for action, make recommendations to the governor, and, where legislation is needed, through him to the legislature. Finally, it should attempt to influence program administrators in other state and federal agencies by focusing attention on the direct and indirect affects that their programs have on local government structure, performance, and capabilities. These should be its major staff functions, whatever other duties it may assume as an agency or department for program administration and technical assistance.

Local Boundary Commission

The Local Boundary Commission was to play a central role in developing and applying standards of incorporation, annexation, and other local boundary changes. After the organized boroughs were established, it, too, largely withdrew from the activist position that exposed it to severe attack during its first years of operation. Consequently, local boundary problems—concerning annexation in particular—have been dealt with cautiously, if at all. Action generally has been taken locally within the same framework of territorial and state law that the constitution presumably was

intended to supercede by establishing the Boundary Commission and giving it broad authority in the first place.

Not only was the commission to "consider any proposed local government boundary change" and to effect such changes subject to legislative veto, it was also to establish new procedures for boundary change by local action.[11] It has already been suggested that, in view of the conditions then prevailing, this was a politically untenable charge for a citizens' commission that was expected to act both as a legislative and judicial body. It would have to operate in potential competition with the legislature, as well as in the face of frequent and intense local resistance, especially if it were to attempt to impose its own solutions on local annexation disputes.[12] While the constitutionality of continued legislative control of boundary changes may be questionable, the Boundary Commission's reluctance to overreach itself is understandable.

Yet, past experience of borough-city conflict over annexation and the creation and operation of service areas indicates a special need for a much stronger Boundary Commission role in this field. Its purpose would be to ensure that appropriate incorporation and annexation standards are met, or that new service areas are warranted and, if so, are properly constituted. This is particularly important with respect to developments in the highly urbanized boroughs.

Eclipse of the local affairs and boundary agencies has meant that broad policy, coordination, and technical assistance and control functions have remained underdeveloped elements of the state's overall approach to local government problems. In the case of the Boundary Commission, the gap has been partially filled by the legislature and by reliance upon existing restrictive laws governing local boundary change. The Local Affairs Agency's

[11] Alaska, *Constitution*, Article X, Section 12. Also see Chapter III, p. 53.

[12] As viewed by one state legislator: "Perhaps the commission could afford to make enemies one by one, bit by bit, but it could never maintain itself in the face of barrage of criticisms which was statewide. The legislature could destroy its." Though established by the constitution, the legislature could limit the commission's activities, among other ways, "by statutory definitions and by withholding appropriate staff and other necessary support." Cease and Saroff, *op. cit.*, p. 90. Also, see Chapter V, pp. 99-100.

responsibilities, as initially envisioned, have been only partially fulfilled by itself, with other state agencies filling in where possible within the limits of their specialized program missions.

While the local affairs and boundary agencies should focus on local government policy, assistance, and controls, the Division of Planning and Research should develop a statewide planning and informational base that would contribute not only to more rational state approaches to local government, but to all phases of policy making for state government and intergovernmental relations.

Planning and Research

A planning division was first established in the governor's office in 1960. As proposed in a 1959 report of the State Planning Commission to the governor,[13] the division would perform the following functions:

1. population and economic fact gathering and analysis,
2. formulation of development policies and plans.
3. preparation of capital improvement programs.
4. planning assistance to operating departments and agencies, and
5. direct staff support to the governor and, through him, to the legislature.

The report identified a critical prerequisite to an effective state planning program: "A planning staff need not be large, but it should be of a high caliber, professional nature."[14] During a decade of extremely tenuous existence, the state planning agency has yet to solve the problems of attracting and keeping the staff needed to carry out its assigned tasks and of sufficiently raising the status of the planning function within the executive branch. More fundamentally, neither did the executive nor the legislature until recently show any significant interest in state planning and research as tools for state policy making and development programming.

[13]Alaska State Planning Commission, "State Planning for Alaska," by Victor Fischer and George W. Rogers (Juneau, December 1959), pp. 13-14.

[14]*Ibid.*, p. 14.

During the past decade, the planning division was shifted out of the governor's office and back again. The division was given legal status, and a new planning program design was prepared by a state planning consultant.[15] Further, the division has formally assumed new regional and local planning functions, initiated a new federal-state coordinating function, and has taken on limited review and coordinative functions related to federal anti-poverty programs in the state. During most of its period of existence, the State Planning and Research Agency has concentrated much less on its basic planning and research assignments than on a variety of organizational and procedural problems and immediate administrative tasks. To that extent, it may have been further diverted from its statewide planning purposes, continuing to delay the development of an adequate planning and research base at the state level, although legislation in 1970 attempted to correct this situation.

Some time before the initial report of the State Planning Commission was made in 1959, the Public Administration Service proposed that local planning assistance be a key function of a Department of Local Affairs. This function would be developed

> as a principal aid to other activities of the Department with respect to such matters as municipal incorporations; the drawing, extension, or shifting of borough and city boundaries; the establishment of service areas; the extension of extra-territorial jurisdiction; and the institution of proper controls over development in unorganized or unincorporated areas and rendering advice and assistance to remote villages and communities to promote economic and social development.[16]

Viewed this way, administration of the local planning assistance function becomes an integral element of the state's overall approach to its local governments. It is not, in contrast, properly viewed as a state planning agency function, even though some techniques and methodologies of planning at different levels may be similar. Here, the governing factors should include the purposes, objectives, and scale of planning; these clearly

[15]Harold R. Wise and Associates, "A State Planning Program for Alaska," a report prepared for the State Division of Planning and Research, September 1968. *Alaska Statutes*, 44.19 as amended 1970.

[16]PAS, *Local Government, op. cit.*, p. 28.

distinguish the state and local planning functions, and it is these that should determine their organizational locations and relationships.

Lack of a statewide planning and research capacity has been costly for state government in Alaska. Opportunity costs have been incurred through inadequate state responses to the forces of change, while undue reliance has been placed on the use of planning consultants. It is not that the state should not hire required expertise, but that much of what has been done has been wasted because of the state's own planning, research, and policy analysis deficiencies. In recent years, for example, consultants have prepared a number of specialized reports on state taxation policies, information systems, tourism and recreation, and other matters. Without exception, these studies have been handicapped both by the lack of an existing state planning and research base and by insufficient state capability to determine how they might be refined, improved, and put to effective use. Most recently, still another consultant was hired by the state to prepare analyses and recommendations to assist the state in responding to no less than all of the major social, economic, and physical development problems and opportunities of petroleum development. There is little reason to doubt that this effort was also seriously hampered because of the state's past failure to develop its own continuing capability to study and plan for its future. Until this condition is remedied, state policy making for local government will itself bear a share of the costs incurred, as will all other areas of state government responsibility.

State Agency Reorganization

This chapter has attempted to indicate directions for state policy making in local affairs, and the following sections suggest changes in state government organization that could strengthen the state's policy leadership role. Special consideration should be given to two organizational reforms:

First, creation of a cabinet-level Department of Community and Regional Affairs, a department that would be comprised of those state agencies and programs most directly concerned with problems of local government organization and performance, and with community and regional planning and development.

Second, reconstitution of the Local Boundary Commission as a permanent Local Government Commission, a body that would conduct studies, reviews, and hearings, and recommend legislative and administrative actions on local government development, organization, and boundary change.

Department of Community and Regional Affairs

The department would assume the currently limited functions of the Local Affairs Agency and go beyond them to fulfill the constitutional mandate "to advise and assist local governments." In addition to the Local Affairs Agency, certain other existing agencies and programs should be transferred to this new department and would constitute its initial core. These are the Rural Development Agency in the Office of the Governor; the state Office of Economic Opportunity within the Division of Planning and Research in the Office of the Governor; the housing, renewal, and other local assistance functions of the Alaska State Housing Authority; and the community and regional planning functions of the Division of Planning and Research in the Office of the Governor.

The close relationships of these core agencies and functions, and their significance for community development and local affairs, provide justification for bringing them together within a Department of Community and Regional Affairs. Their programs are directed to basic problems of local government organization and performance, the development of community infrastructure and services, and community and regional planning. They can and should be mutually reinforcing. Their location within a common administrative organization will provide the opportunity to impose some consistent policy direction on them and facilitate communication among the officials charged with implementation. This is not to claim that there is any magic in the principle of "departmentalization by purpose"; programs that separately have been less than adequate may together show similar weaknesses. Yet, creation of a Department of Community and Regional Affairs should call attention to interrelated community development and local governmental problems and help generate public pressure for more rational policy making and administration. It should also generate internal

organizational pressures along the same lines, while providing minimum structural conditions for achieving these objectives.

The federally supported local planning assistance program can be used as a tool for intergovernmental program coordination at the local community level. Such programs would include not only housing, renewal, and other programs of the department, but also those of other federal and state departments and agencies. In addition, the local planning assistance program can provide a focus for departmental technical assistance to local governments. Federal funds for planning may now be used for a wide range of governmental, organizational, and management studies that go considerably beyond the traditional scope of local and regional planning programs. Regional planning would focus on Alaska's major socio-economic and geographic regions, and provide the necessary technical base of information, plans, and programs to support the work of the state legislature and the Department of Community and Regional Affairs. The department would work closely with the various state agencies serving the various regions of the state.

While regional planning should be a function of the Department of Community and Regional Affairs, state planning should continue to be carried out by the Division of Planning and Research within the Office of the Governor. State planning would focus on statewide affairs and program coordination and budgeting at inter-agency and inter-regional levels. Planning at these levels should continue to be directly under the governor and be closely related to the state government budgeting process. Regional planning, on the other hand, should relate more directly to policy making and administration for particular regions, while contributing to and benefiting from the statewide planning program.

Perhaps the single most important function of this department would be one that is essentially political in character: it would serve as an active partisan of the "local government interest" in state policy making and administration. Though the department may serve this basic political function—and its long-term effectiveness may well depend on it—it neither can nor should attempt to substitute for borough and city officials' own lobbying organizations, such as the Alaska Municipal League. Neither can it eliminate the need for direct relationships between individual local officials

and state political leaders and administrators. On balance, the creation of such a department would clearly be to the advantage of local and regional interests as an additional point of access to state policy development, review, and change; as a vehicle for the authoritative expression of their interests in the ongoing business of state administration at both cabinet and operational levels; and as a positive force for the formulation and implementation of a coherent statewide local government and regional development policy.[17]

Local Government Commission

A major conclusion of this study is that problems of local government structure, organization, functions, finance, and boundaries are in many ways inseparable. Rational boundary setting and change must, therefore, be based upon clear views of governmental purpose and function and adequate standards for local government incorporation. These, in turn, must take into account varying capabilities of local governments in different parts of the state and the extent of their dependence on servicing by state and federal agencies. Further, the functions of any local government will reflect the nature and extent of the community it is established to serve. It may encompass developed, urbanizing, or rural areas, or any combination of them. Depending upon local administrative and fiscal capabilities, the character of settlement patterns, and the degree of social and economic interdependence and complexity, different forms of local government—city, service area, regional borough, or unified city-borough—will be indicated. Thus, the need exists for a state body that does not confine itself narrowly to "boundary" questions, but deals with the full range of local government development factors that give meaning and purpose to boundary setting and change and takes full cognizance of the dynamic nature of the local governmental system.

[17]See Appendix F for brief comparative descriptions of local affairs and related state agencies in the United States at the end of 1968.

The Local Boundary Commission should be upgraded and renamed in accordance with the scope and significance of its responsibilities. The legislature should authorize the creation of a permanent "Local Government Commission," appointed by the governor, to carry on continuing studies of local government conduct, undertake reviews and hearings on questions of incorporation and boundary change in all parts of the state, and make recommendations to the legislature and the administration. This commission would continue to carry out the constitutional mandate to develop and apply standards of incorporation, annexation, and other boundary actions designed to assist in realizing the objective of "maximum local self-government with a minimum of local government units." The commission would be an independent agency associated with the Department of Community and Regional Affairs, which would provide the necessary staff support for the commission's initial and continuing programs.

The most important initial function of the Local Government Commission would be to organize and carry out a statewide program of studies, hearings, and discussions leading to a clear delineation of state policies and to specific recommendations for local government reorganization. The commission should conduct a thorough review of the existing local government system, focusing upon the relationships between type of government (borough or city), classification, functions, and boundaries. It would make recommendations for adjustment of existing borough and city boundaries; reallocation of functions and financial responsibilities; dissolution or maintenance of existing organized boroughs, service areas, and cities; borough-city unification; and reform of the existing municipal, borough, and education codes.

Conclusion

The state has never had a sound local affairs policy; nor, until recently, has it shown much interest in developing and implementing one. This first became apparent in the years immediately after statehood, when neither the executive nor the legislature were able to cope effectively with the problems of borough formation and the definition of borough roles and purposes.

With its new fiscal leverage, the state is now in a position to effect basic alterations in the existing pattern of local government and state-local relations. The state's objectives should be to encourage certain changes in the structure of local government (e.g., unification and regionalism) and to discourage others (e.g., proliferation of service areas and hardening of local boundaries). The state can provide financial assistance where it is needed most, and it can itself assume full responsibility for functions that may be performed at the state level.

The policy development problems and tasks identified in this chapter bear directly on the current and future status of borough government in Alaska. The distribution of financial and administrative activities, state financial aid policies, state planning and policy development mechanisms, and state control over boundary setting and change can all profoundly effect the character and functions of borough governments. To guide the state's approach to its local governments, there must be clearer definitions than now exist of the purposes and roles of all levels and units of government in Alaska. Decisions must be made about what functions are to be performed and paid for by whom.

CHAPTER VII

CONCLUSION

State legislative and executive authorities established boroughs not as part of a long term, rational strategy for the structuring of a statewide local governmental system, but to accomplish certain limited purposes in specific urban areas of the state. The constitution called for the integration of special districts into cities and boroughs; laws governing special districts were frozen, and a two year time limit for the elimination of special districts was imposed by the 1961 borough act. In addition, establishment of boroughs was seen by some as a means of spreading the local tax base over areas larger than the old independent school districts, thereby requiring the residents of outlying areas, previously served directly by the state, to contribute financial support to local school programs and eventually to other borough service programs as well.

Accomplishing these purposes required a series of compromises that resulted in a limited definition of borough governments, which soon found themselves in conflict with established city and school district organizations. Boroughs also became objects of resentment because of the way in which they were imposed, and they met much resistance from people who, for the first time, were added to local property tax rolls. In contrast to the Constitutional Convention's rather lofty view, state authorities lowered their sights, perhaps too far, and failed to develop a broadly acceptable policy framework for the entire local governmental system as a whole and for the role of boroughs as central elements of that system.

Notwithstanding these inauspicious beginnings, a base for areawide government was permanently established. Although some irreversible decisions were made, important options for future adjustment within the system were not cut off. We have seen that unification has already emerged as a potential solution to borough-city conflict in areas centering on a

dominant urban core. And in more extensive areas containing several smaller local communities, the borough may well be emerging as a distinctive and purposeful regional government instead of a competing level of local government. But if the local governmental system is progressively being rationalized, this is happening largely despite, and not because of, what the state has or has not done over the past decade. Only recently has the state begun to actively consider local government problems, and the factor most responsible for this change is the quantum jump in state government income resulting from the discovery of oil of Alaska's North Slope and the prospects of its long term flow at high rates.

At least as important as state policies that can shape the structure of local government are others that can change the distribution of financial and administrative responsibilities. Thus, the state is now assuming greater responsibility for financing local public education, thereby helping to ensure greater equality of educational opportunity while freeing local resources for other local uses. This approach could be extended to include other public functions, such as health services, that are of statewide significance and that may be more efficiently performed on a statewide scale. But such an approach will require much clearer definitions than now exist of the purposes and roles not only of service areas, cities, and boroughs, but of the state and federal governments in Alaska as well.

Effective development and application of structural reform, activity redistribution, and other policies affecting Alaska's local governments will in part depend on improvements in state government administration. During recent years, the most significant state policy initiatives in local governmental affairs have been taken by the state legislature, while the executive branch has lagged behind. Recently, however, a more positive approach to local government appears indicated by the early moves of the current state administration.

Thus, while establishment of boroughs and the new local government system had an unpropitious beginning, events over the limited period since statehood have indicated the adaptability of the system to changing awareness, conditions, and problems. The local government problem today is not a constitutional one, but rather a problem of legislation and administration, of planning, policy making, and action. Because of the extreme broadness of the local government article of the constitution, little guidance was provided to state policy makers in the first years after statehood, and mistakes were made in establishing the boroughs. However,

adaptations have been made, and the opportunity remains to change laws and policies on the basis of experience. What can be accomplished by legislation and administration should not be done by constitutional revision.

In the early days of statehood, the state was in no position to follow the "incentive" approach to the establishment of the new local governmental system. Rather, it used its superior legal power to require the creation of boroughs. Now, with the prospects of unprecedented state revenues from petroleum development, the state can use its fiscal leverage as well as its superior power in further shaping and developing its local governments.

The need for differing approaches depending upon the type of borough concerned—urban or regional—should be recognized. In urban boroughs, state policy should support the trend toward unification. In regional boroughs, the role of the borough as a regional form of government should be strengthened, with cities serving strictly local needs.

In rural Alaska, the unorganized borough remains a neglected constitutional vehicle for the development of regional government. There, the future role of the borough will depend largely on the extent to which federal and state governments are willing to share authority for program planning and direction with local representatives, to regionalize program administration, and to provide sufficient levels of financial and technical support. In the absence of state initiative and assistance, Native leaders have built their own regional organizations and statewide association (Alaska Federation of Natives) primarily to pursue their interest in a land claims settlement. The state will need to take full account of these developments in political organization as it proceeds to establish regional government in rural Alaska. It will also need to apply the lessons that it should have learned in establishing the organized boroughs in urban Alaska over the past ten years. Perhaps the most important of these lessons is that there is no substitute for clear definitions of purpose, careful assessment of means and likely consequences, and a systematic strategy for action—in short, rational plans and decisions.

A major problem in modernizing local government throughout the nation is that local structures have become so solidly entrenched that even minor changes or modifications are almost impossible to achieve. Alaska's constitution, on the other hand, assumes that continuing adaptation is necessary and can be realized. This study has found that the state still has the opportunity to clarify objectives for the local governmental system and to ensure its adaptability, its capacity to change. It remains for the state to fully assume and exercise its responsibility to guide and support the further development of Alaska's local governmental system.

APPENDICES

APPENDIX A

ALASKA STATE CONSTITUTION
ARTICLE X

LOCAL GOVERNMENT

Purpose and Construction

SECTION 1. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Local Government Powers

SECTION 2. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Boroughs

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

Assembly

SECTION 4. The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. Each city of the first class, and each city of any other class designated by law, shall be represented on the assembly by one or more members of its council. The other members of the assembly shall be elected from and by the qualified voters resident outside such cities.

Service Areas

SECTION 5. Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

Unorganized Boroughs

SECTION 6. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for minimum local participation and responsibility. It may exercise any power of function in an unorganized borough which the assembly may exercise in an organized borough.

Cities

SECTION 7. Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

Council

SECTION 8. The governing body of a city shall be the council.

Charters

SECTION 9. The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

Extended Home Rule

SECTION 10. The legislature may extend home rule to other boroughs and cities.

Home Rule Powers

SECTION 11. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

Boundaries

SECTION 12. 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.

Agreements; Transfer of Powers

SECTION 13. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Local Government Agency

SECTION 14. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

Special Service Districts

SECTION 15. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

APPENDIX B

MAJOR DIFFERENCES BETWEEN FIRST, SECOND, THIRD, AND FOURTH CLASS CITIES IN ALASKA

(Prepared by Local Affairs Agency, State of Alaska)

The major differences between first, second, and third class cities in Alaska are few. They share many of the same powers and duties and have similar forms of municipal government. The major differences between the first three classes and the fourth class are greater. The various major differences between the several classes are as follows:

Incorporation

First Class: Requires at least 400 permanent inhabitants; at least 100 of the qualified voters sign an incorporation petition.

Second Class: Requires at least 50 permanent inhabitants; at least 15 of the qualified voters sign an incorporation petition.

Third Class: Requires at least 5 bona fide residents or property owners for petition; area limited to 50 square miles; no actual population requirement.

Fourth Class: Requires at least 25 permanent inhabitants 19 years of age or older within a 3-mile radius; at least 20 qualified voters sign an incorporation petition; size not limited by 3 mile radius.

Reclassification

First Class:	May adopt home rule charter.
Second Class:	May, if meets standards for incorporation of first class city, reclassify as first class city.
Third Class:	May, if meets standards for incorporation of higher class city, reclassify as higher class city.
Fourth Class:	May, if meets standards for incorporation of higher class city, reclassify as higher class city.

Powers

First Class:	Greatest powers of any class save home rule; police, licensing, roads and streets, sales tax, property tax, special assessment, granting franchise, and so on.
Second Class:	Very similar to first class; some limitation
Third Class:	Same as second class.
Fourth Class:	Limited; powers continually growing; may not levy property tax or special assessments.

Duties

First Class:	Primarily discretionary; must maintain and operate local school system; in certain situations, may be held responsible for adequate performance of authorized acts undertaken.
Second Class:	Same.

Third Class: Same.

Fourth Class: So far, none; probably can be held responsible for adequate performance of authorized acts undertaken.

Form of Government

First Class: Variable: council-mayor or council manager.

Second Class: Same.

Third Class: Same. (Probably, may, however, be limited to board of trustees from whom a chairman is selected to act as ex-officio mayor).

Fourth Class: Council from whom president is chosen.

The most important distinctions would seem to be these: (1) only a first class city may adopt a home rule charter; (2) only a fourth class city may *not* levy property taxes and special assessments; and (3) only a fourth class city is *not* responsible for the operation and maintenance of a local school.

APPENDIX C

FEDERAL GOVERNMENT EXPENDITURES IN ALASKA, 1967-68

In the late 1960's, federal agencies directly spent more money for domestic purposes than the state, and employed more people in civilian jobs than state and local governments combined. (Table C-1.) If defense spending and military employment were added, federal expenditures would have more than doubled and federal employment nearly tripled. Government employment at all levels was the source of nearly half of the total personal income of Alaskans. Of income earned from government sources, about three-fourths came from federal civilian and military agencies.

TABLE C-1

DOMESTIC EMPLOYMENT AND EXPENDITURES IN ALASKA, 1967

	Employment		Expenditures	
	Number	Percentage	Amount (1000's)	Percentage
Federal	17,400	54.7%	$300.0	47.4%
State	8,100	25.5	235.8	37.3
Local	6,300	19.8	96.7	15.3
TOTALS	31,800	100.0%	$632.5	100.0%

SOURCES: U.S. Bureau of the Census, Alaska Department of Labor; Office of Economic Opportunity, *Federal Outlays in Alaska in Fiscal Year 1968.*

In 1967, all federal agencies in Alaska, including the military, spent more than twice as much as the state and six times as much as local governments. A large proportion of these expenditures was for national security purposes and was unrelated to problems and needs specific to Alaska. However, even if defense and related expenditures are excluded, federal agencies nonetheless spent one-third more than the state and three times more than local governments. Table C-2 compares the governmental distribution of these domestic expenditures in Alaska to the United States as a whole.

The federal role is a complex, multi-faceted one, including many elements unrelated either to local or state governments and others that are not specific to Alaska at all. Only a small part of federal domestic expenditures in Alaska *directly* impinge on local governments. As can be

TABLE C-2

PERCENTAGE OF GENERAL EXPENDITURES IN ALASKA AND THE U.S. BY LEVEL OF GOVERNMENT, 1967

	Total Expenditures	Domestic Expenditures	
Level	Alaska	Alaska	U.S.
Federal	64%	48%	33%
State	26	37	24
Local	10	15	43
TOTALS	100%	100%	100%

SOURCES: U.S. Bureau of the Census, *Governmental Finances in 1966-67; Special Analyses: Budget of the United States.* (Washington, D.C.: Government Printing Office, 1968.)

seen from Table C-3, the federal impact, insofar as it reaches Alaska's local communities, takes several forms and follows a variety of direct and indirect routes, the least important of which are direct, federal-local government links.

TABLE C-3

ALASKA FEDERAL PROGRAM SUMMARY, 1968

Type	Estimated Amount (in millions)	Percentage
Aids to state government	$ 70.0	9.2%
Aids to local governments and non-profit community service organizations	17.5	2.3
Civilian operations (BIA-PHS-BLM $50.0) (Others $79.0)	129.0	17.1
Payments to individuals and private educational and other institutions	145.5	19.2
Military and related	395.0	52.2
TOTALS	$757.0	100.0%

SOURCES: State of Alaska, *Revenue Sources, 1968-1974* (Juneau, 1969); Office of Economic Opportunity, *Federal Outlays in Alaska in Fiscal Year 1968;* and Office of Senator E.L. Bartlett, "Federal Programs for Alaska," 1963-67.

Federal agencies contribute substantial financial support to the state budget, accounting in fiscal 1968 for over one-third of total state revenues. Most of these monies supported state programs in the areas of health, education, welfare, employment, and transportation. Except in the cases of some health and education programs, these funds were handled by state agencies, and any relationship between the federal and local governments is indirect.

However, several federal agencies directly administer various social welfare, public works, and land resources programs. In many villages in Native Alaska, education, health, and welfare programs administered by the Bureau of Indian Affairs (BIA) and the Public Health Service (PHS) are the most significant governmental activities. Federal lands in Alaska, which include most of the state outside the cities, are mainly under the jurisdiction of the Bureau of Land Management (BLM).

Federal agencies also provide loans, grants, mortgage guarantees, welfare and retirement payments, contracts for research and other forms of transfers to a variety of individual and private institutional recipients. Of this type of funding, assistance for private housing and small businesses are the most directly important to local community development.

Other federal programs give aids directly to local governments and non-profit community service organizations, such as economic planning and development organizations and anti-poverty agencies. These programs were by far the smallest part of 1968 federal outlays in Alaska.

Finally, military expenditures in 1968 accounted for over half of all federal activities in Alaska. These of course, are independent of the intergovernmental structure that is of concern here, even though the local economic impact of the military spending can be very significant. In large part, however, military expenditures for Alaska-based programs are not made within the state itself.

Table C-3 indicates that only 10 or 12 per cent of the federal government's 1968 expenditures in Alaska involved *direct* relationships with state agencies and local governments. In contrast, 50 to 60 per cent was accounted for by military and other national programs (e.g., land and resources) beyond the scope of state and local government altogether.

Falling in between were aids to individuals and institutions, some of which do have significant indirect implications for local government and state policy making, particularly those to quasi-governmental regional planning and development organizations in unorganized Alaska.

Thus, the federal government role in Alaska is substantial, but the bulk of federal expenditures are for activities of directly national, rather than state or local, purposes.

APPENDIX D

STATE AID TO LOCAL GOVERNMENTS

Title 43, Chapter 18, *Alaska Statutes*

Section 10. State aid to local governments

Section 20. Construction and implementation of chapter

Section 30. Local tax levy reduction

Section 43.18.010. State aid to local governments.

(a) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide the following services and exercises that power

(1) $10 per capita to cities and boroughs providing police protection, subject to the conditions of this paragraph and (g) of this section;

(A) municipal police protection shall be available 24 hours a day;

(B) municipal police officers shall be U.S. citizens who are at least 19 years of age and who have not been convicted of a crime involving moral turpitude within the past 10 years;

(2) $5 per capita to cities and boroughs providing fire protection;

(A) fire protection includes, but is not limited to, fire protection provided by a volunteer fire department registered with the state fire marshal which has official recognition and financial support from the city or borough in which it is located;

(B) in addition to the grants authorized under this section, the state shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or a city a sum for protection purposes equal to $5 per capita for the population served by the department, as determined by the state fire marshal using the latest figures of the United States Bureau of the Census or other reliable data; grants shall be made on the same basis to facilitate the organization of volunteer fire departments in an area not in an organized borough or a city, upon application of the proposed fire protection group to the state fire marshal and approval of applications according to standards of organization and service prescribed by regulations promulgated by the state fire marshal;

(3) $2 per capita to cities and boroughs providing air or water pollution control or both;

(A) in order to qualify for air pollution control aid the municipalities shall be either engaged in comprehensive study of air pollution control program or implementation of an air pollution control program;

(B) in order to qualify for water pollution control aid the municipalities shall either have primary or secondary sewage treatment facilities under construction or be providing primary or secondary treatment;

(4) $2 per capita to cities and boroughs providing land use planning, subject to the conditions of this paragraph;

(A) the municipalities shall be in the process of preparing or updating a comprehensive land use plan or be implementing a comprehensive land use plan through exercise of zoning powers; and

(B) if the municipality has a population of fewer than 12,000 persons, the municipality shall qualify for aid under this paragraph by availing itself of planning assistance through either:

(i) a staff planner charged with the primary responsibility of land use planning and plan implementation; or

(ii) an annual contract with a recognized planning firm to provide land use planning and plan implementation on a consulting basis with a work program outline approved by the Local Affairs Agency; or

(iii) the state's continuing planning advisory service program through the Local Affairs Agency;

(C) if a municipality has a population over 12,000 persons, the municipality, to qualify for aid under this paragraph, shall employ a staff planner charged with the primary responsibility for land use planning and plan implementation;

(5) $5 per capita to cities and boroughs providing for parks and recreation; and

(6) $5 per capita to cities and boroughs providing transportation facilities or services limited to municipally-operated small boat harbors, ports, airports, or transit systems.

(b) During each fiscal year the state shall pay to a city or organized borough of any class which has power to provide for road maintenance and exercises the power a sum equal to $1,500 a mile for each mile of road, street or highway maintained by the local government, excluding the official state highway system, roads, streets or highways not dedicated to public use, and alleyways, in accordance with regulations adopted by the Department of Highways. No payments may be made for maintenance of roads not used by automotive equipment.

(c) For purposes of this section, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data.

(d) If a borough exercises the powers in (a) of this section in the borough area outside cities only, or in a service area only, the grants authorized under this section shall be based on the population of the borough area outside cities or the service area respectively.

(e) If the services in (a) and (b) of this section are provided by a service area, the borough shall give to the service area an amount equal to the funds provided by the state for the services provided by the service area.

(f) Funds received by a city, borough or service area under this section may be expended for any public purpose for which it has power to expend public funds, except as provided in (h) of this section.

(g) If a city within an organized borough provides police protection services, the borough may not qualify for aid under (a) (1) of this section unless

(1) policy protection services are provided in the borough area outside cities, or if limited to a service area, in the service area, through borough contract with a city or the state or

(2) the borough assumes and exercises power to provide police protection services on an areawide basis in the manner provided by law. (§ 10 ch SLA 1969)

Revisor's note (1969).—In ch SLA 1969, AS 43.18 was number 43.78.

(h) During each fiscal year the state shall pay to an organized borough or a city outside an organized borough, in which a health facility is operated, a sum equal to $1,000 for each bed actually used for patient care within the facility, limited to the maximum number of beds provided for in the construction design of the facility, or $4,000 for a facility, if the local government elects to accept payment on that basis for a particular facility. Sums received by a local government under this subsection shall be used for expenses of operation, maintenance or health services or facilities, as the local government determines.

(i) In (h) of this section "health facility" or "facility" includes hospitals, public health centers, community mental health centers, facilities for the mentally or physically handicapped, nursing homes and convalescent centers which are licensed by the state under AS 18.20.130 and are owned or operated or both by a local government or by a nonprofit corporation or other nonprofit sponsor; the term excludes facilities operated or wholly supported by the state or the federal governments.

Section 43.18.020. Construction and implementation of chapter.

(a) This chapter may not be construed so as to create a debt of the state.

(b) The special municipal services account is established. Funds to carry out the provisions of § 10 of this chapter may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of each local government's share authorized under § 10 of this chapter, such funds as are available shall be distributed pro rata among eligible local governments.

(c) Money in the special municipal services account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this chapter reverts to the general fund. (§ 10 ch 95 SLA 1969)

Section 43,18.030. Local Tax Levy Reduction.

(a) The intent of this chapter in authorizing state aid for municipal purposes is that local governments which levy property taxes reduce those levies in reasonable proportion to the amount of state aid received by a local government for a given fiscal year.

(b) The governing body shall furnish the following notice with tax statements mailed for the fiscal year for which aid is received under this chapter:

"NOTICE TO TAXPAYER"

For the current fiscal year the (city) (Borough) has been allocated the following amount of state aid for school and municipal purposes under the Public School Foundation Program (Alaska Statutes 14.17) and the revenue-sharing provisions of Alaska Statutes 43.78:

SCHOOL AID $

AID BASED ON MUNICIPAL SERVICES FURNISHED (fire protection, police protection, air or water pollution control, land use planning, road maintenance, parks and recreation, transportation facilities and services, hospital operation)

The millage equivalent of this state aid, based on the present dollar value of a mill in the municipality, is _____mills."

APPENDIX E

APPROACHES TO STATE AID EQUALIZATION

State assistance ideally should be directly related to *need* and inversely related to fiscal *capacity*. Need and fiscal capacity must be defined operationally; the object is to reflect as nearly as possible both the amount of resources available to be taxed locally and the magnitude of need to be met. This, however, is a very difficult task. Various measures have been devised, and all are imperfect in one respect or another. These have included real property valuation at an equalized level of assessment, yield from a uniform tax system of some kind (frequently an income tax), per capita income, population, or some combination of these. Significant variations in the need for public expenditures may not be adequately accounted for in such measures; such variations may, for example, be related to the dependency ratio in the local population, the unemployment rate, the degree of poverty in the community, and the "need backlog."

For illustrative purposes, the table on the next page ranks Alaska boroughs according to one measure of fiscal capacity (also reflecting "need"). This measure combines per capita property value and per capita income, in this case weighting them equally. The following are examples of alternative methods of determining amounts of state aid to local governments under an equalization policy.

Equalization Formulas

In order to aid local government in a way that corresponds to relative needs and resources, operational criteria have to be devised. Many states have set up official Equalization Boards. California and New York, two states that are heavily committed to aid to local government, have such boards and use very complicated criteria. Other states, including Wyoming and Nevada, use population only as a basis for determining the amount of aid. An example of

COMPARATIVE FISCAL CAPACITY OF BOROUGHS, 1967

Borough	Civilian Population[1]	Full Value of Taxable Property	Per Capita Property Value	Deviation From Mean	Index	Personal Income[2]	Personal Income Per Capita	Deviation From Mean	Index	Combined Index
Bristol Bay	4,256	$ 13,540,731	$3,182	-5,047	38.7	$ 8,138,001	$1,912	-1,127	62.9	50.8
Fairbanks North Star	36,029	217,174,320	6,028	-2,201	73.3	104,934,736	2,913	-126	95.8	84.5
Gateway	11,485	84,018,216	7,315	-914	88.9	30,922,704	2,692	-347	88.6	88.7
Greater Anchorage Area	91,787	808,884,817	8,813	584	107.1	295,324,241	3,217	178	105.9	106.5
Greater Juneau Area	13,237	122,288,998	9,238	1,009	112,3	44,410,808	3,355	316	110.4	111.3
Greater Sitka	7,395	31,298,551	4,232	-3,997	51.4	18,993,801	2,568	-471	84.5	68.0
Kenai Peninsula	11,443	183,856,158	16,067	7,838	195.2	41,793,822	3,652	613	120.2	157.7
Kodiak Island	7,309	49,368,191	6,754	-1,475	82.1	20,875,779	2,856	-183	94.0	88.1
Matanuska-Susitna	6,355	47,312,450	7,445	-784	90.5	9,959,303	1,567	-1,472	51.6	71.1
TOTALS	189,296	$1,557,742,432	--------	--------	--------	$575,353,195	--------	--------	--------	--------
MEAN	21,033	$ 173,082,492	$8,229	--------	100.0	$ 63,928,133	$3,039	--------	100.0	100.0

[1]On December 1, 1967.

[2]Includes only nonagricultural wage and salary payments welfare payments, and unemployment insurance payments. The figure has little meaning as important sources of income are left out, but the index of relative fiscal capacity is meaningful and probably quite accurate.

SOURCES: Alaska Local Affairs Agency, Alaska Department of Labor, U.S. Bureau of Indian Affairs, Alaska Department of Health and Welfare.

a formula that relates population to fiscal capacity as a basis for aid is as follows:

$$E_i = P_i \left[\left(\frac{R_s}{B_s} \cdot \frac{B_s}{P_s}\right) - \left(\frac{R_s}{B_s} \cdot \frac{B_i}{P_i}\right)\right] = R_s \left(\frac{P_i}{P_s} - \frac{B_i}{B_s}\right)$$

where E = amount of equalization gap
P = population
R = yield of a standard local tax structure
B = base of a standard local tax structure
s = state total for the variable
i = identity of local government

The value in the first set of parentheses is the per capita yield of a standard local tax system for the state as a whole. The value in the second set of parentheses is the per capita yield of this tax system in a particular local jurisdiction. The difference is the per capita equalization gap, which is then multiplied by population to obtain the total amount of the gap. Richer areas will have a negative gap, poorer, a positive gap. The sum of the equalization gaps for all local jurisdictions equals one.

The size of equalization gap for all local units can be converted into an index number or a percentage share to make it more manipulatable. This formula is simple in that only population is used as a measure of need. This may be satisfactory for some program uses. In other cases, the formula may need to be elaborated. For example, adding per capita income and giving it equal weight to population results in the following form of equation:

$$E = R_s \left[\left(\frac{P_i}{P_s} + \frac{I_i}{I_s}\right) \div 2 - \frac{B_i}{B_c}\right]$$

where I = per capita income.

Another frequently expressed objective of state policy is stabilization of the fiscal condition of local governments. Small units of government are particularly susceptable to erractic and relatively large shifts in expenditures or revenues. Wide variations in revenues are extremely troublesome and deserving of corrective state action. Eligibility for aid to compensate for such fluctuations downward should require that the drop in tax yield exceed a certain percentage of a specified base amount, and that not all of the drop be compensated. An example of a formula that would achieve this type of assistance is:

$$SP_i = a \left(\frac{R_{t-1} \quad R_{t-2}}{2}\right) - R_t$$

where SP = amount of stabilization payment to local government identified by i

R = tax revenue
t = current fiscal year
a = percentage of compensation as determined by policy, such as .75

APPENDIX F

LOCAL AFFAIRS AGENCIES

The Pennsylvania Bureau of Municipal Affairs, established in 1919, was the first of the state general assistance agencies specifically established to meet the needs of local governments. Combined with its technical assistance functions were supervisory responsibilities for local financial affairs. Nearly 20 years later, in 1938, New Jersey's Division of Local Government was established. This agency was authorized to provide broad forms of technical assistance, but most emphasis was given to supervision of local finances.[1] Twenty more years passed before other states began to move in similar directions. It was not until 1959 that general assistance and staff service units were created in two additional states, New York and Alaska. In the 1960's, however, more than a dozen additional states established new agencies of local and urban affairs.

Several policy research and promotional organizations at the national level have called for the establishment of state agencies of local or urban affairs. The basic justification for such an agency was expressed in a 1967 report to the National Governors' Conference:

> The absence of proper state attention to urban affairs is partially reflected in the scattering of urban related programs among numerous state agencies, a lack of coordination and common goals for these programs, and a failure to attribute importance to them by their "multi-level removal" from the immediacy of the chief executive and his cabinet.[2]

[1]In the case of both states, these units were absorbed in whole or part by new cabinet Departments of Community Affairs in 1966.

[2]National Governors' Conference, *The States and Urban Problems*, Staff Study, October 1967, p. 132.

Further, enactment of many new federal aid programs in the 1960's has directed much attention to the need for greater federal-state coordination in the urban development field and for state assistance to local governments in obtaining and making use of federal aids. This is one of the principal functions envisioned for state agencies of local affairs. Comprehensive state planning and programming agencies, whether incorporated into or organizationally independent of local affairs agencies, are viewed as providing additional means for coherent policy making and the coordination of federal, state, and local development efforts.[3]

There is general agreement that certain advisory, coordinating, and technical assistance functions should be performed by local affairs agency. There is much less agreement, however, about the extent to which such an agency should or can assume direct operating authority and program responsibilities that cut across the functional lines of several existing departments and agencies. There also tends to be resistance from existing groups and agencies fearing loss of status or authority in any reorganizational effort in state government, whoever the beneficiaries might be. Following from this, there are differing views as to what the agency's organizational status should be: cabinet department, staff unit in the governor's office, or division of a larger state agency such as a department of administration.[4]

By the end of 1968, nineteen states had general purpose urban affairs agencies.[5] Six other states were reported to be taking active steps in 1968 to

[3]See, for example, Council of State Governments, *State Programming and Economic Development*, by Selma J. Mushkin (Chicago, 1965); Council of State Governments, *State Planning: A Policy Statement* (Chicago, 1962); and U.S. Department of Commerce, Economic Development Administration, *State Development Strategies*, proceedings of a seminar, Portland, Oregon, August 13-14, 1966.

[4]Cf. Joseph F. Zimmerman, *State Agencies for Local Affairs*, Local Government Studies Center, Graduate School of Public Affairs, State University of New York at Albany, June 1968, pp. 18-21. (Mimeo.)

[5]Information on characteristics of local affairs agencies drawn from ACIR, *Ninth Annual Report*, Washington, D.C., January 31, 1968, pp. 38-9; National Governors' Conference, *The States and Urban Problems*, *op. cit.*, pp. 136-69, 152-59; and National Governors' Conference, Committee on State-Urban Relations, "Report," July 22, 1968. (Mimeo.)

establish local affairs agencies. Of the nineteen agencies, three were established in 1968, eight in 1967, and four in 1966. (See table on the next page.)

Eight of the agencies have status as executive branch departments. All of these were created in 1966 or later. Six others are units within the office of the governor. The five remaining agencies are units within a larger state agency; for example, Minnesota's Office of Local and Urban Affairs is located in the State Planning Agency, and Nebraska's Division of Urban Affairs is part of the Department of Economic Development.

All of the agencies have state executive staff and local technical assistance functions. These include research and information programs, intergovernmental and interprogram coordination, and the provision of advice and recommendations to the governor and to other executive officials. In contrast, only five agencies—Pennsylvania, New Jersey, Missouri, Rhode Island, and Wisconsin—are reported to have "program responsibilities" of some type for one or more urban functions, including urban renewal, anti-poverty, housing, and economic development. It should be noted that these five are new agencies, and each has departmental status. Seven agencies carry on statewide planning programs in addition to the local responsibilities: Pennsylvania, New Jersey, Connecticut, Washington, Virginia, Rhode Island, and Missouri. Six of these (Virginia excluded), together with two others—Wisconsin and Vermont—administer local planning assistance programs. Only three agencies—Rhode Island, Pennsylvania, and New Jersey—have assumed certain supervisory functions in the field of local finance. Generally, local affairs agencies are staff service and technical assistance units rather than control, enforcement, or functional program agencies.

The Connecticut, Pennsylvania, and New Jersey Departments of Community Affairs appear to have developed the most substantial organizational capacities and broadly ranging programs of activity. In the near future, however, newly created executive departments in Rhode Island and Wisconsin may also emerge as important factors in their state governments. Also as newly established executive departments, the Massachusetts, Missouri, and Ohio agencies have similar potential. At the lower end of the scale are the agencies in Alaska, Colorado, Illinois,

STATE AGENCIES OF LOCAL AFFAIRS

State	Name of Agency	Year Created	Location
Alaska	Local Affairs Agency	1959	Governor's Office
California	Intergov. Council on Urban Growth	1963	Governor's Office
Colorado	Div. of Local Government	1966	In Executive Dept.
Connecticut	Dept. of Community Affairs	1967	Independent Dept.
Illinois	Office of Local Government	1966	Governor's Office
Massachusetts	Dept. of Community Affairs	1968	Independent Dept.
Minnesota	Office of Local and Urban Affairs	1967	State Planning Agency
Missouri	Dept. of Community Affairs	1967	Independent Dept.
Nebraska	Div. of Urban Affairs	1967	Dept. of Economic Development
New Jersey	Dept. of Community Affairs	1966	Independent Dept.
New York	Office of Local Government	1959	In Executive Dept.
Ohio	Dept. of Urban Affairs	1967	Independent Dept.
Pennsylvania	Dept. of Community Affairs	1966	Independent Dept.
Rhode Island	Dept. of Community Affairs	1968	Independent Dept.
Tennessee*	Office of Local Government	1963	Treasury
Vermont	Office of Local Affairs	1967	Governor's Office
Virginia	Div. of State Planning and Community Affairs	1968	Governor's Office
Washington	Planning and Community Affairs Agency	1967	Governor's Office
Wisconsin	Dept. of Local Affairs and Development	1967	Independent Dept.

*Tennessee also established an Office of Urban and Federal Affairs in the Executive Office in 1968.

SOURCE: See footnote 5 above.

Minnesota, Tennessee, Virginia, and Vermont. As indicated by such characteristics as limited staff and funding, narrow statutory authority, or newness, these agencies have played extremely restricted roles in their state governments.

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