

Million Dollar Mulligan

By: Lance Roberts

On June 23rd the Fairbanks North Star Borough Assembly, voted 8-1 for Resolution 2011-26, which would protest the Alaska Redistricting Board's final redistricting map. That night, the audience was packed by those who support a redistricting map that the mayor has been supporting with our tax dollars - a map created by the Democratic Party's Rights Coalition. The vote was tacit approval of the partisan activity of the administration and could cost the borough taxpayers significantly.

The resolution didn't only signal a protest; it specifically stated that the borough would sue the state over the final map, which the redistricting board had approved across partisan lines by a vote of 5-0. The borough attorney gave the assembly an estimate for court costs of up to \$25,000. The costs incurred for the original plaintiff in the year 2001 redistricting lawsuit (which the then-Borough Assembly wisely did not join) was over \$1.4 Million. The state reimbursed the plaintiffs more than \$1 million, but additional costs were more than \$350,000. If this scenario holds true today, the borough taxpayers could be on the hook for about \$1.4 million to support a partisan agenda.

The odds of the borough winning this suit are slight. To understand why, let's look at the criteria mandated to the board, in order of priority:

1) U.S. Constitution's equal protection clause (one man-one vote):

The generally accepted variation in district population is 10% from smallest to largest. The variation achieved by the final redistricting plan is 8.46%.

2) The federal Voting Rights Act:

The act requires that the Plan have nine districts with a required percentage of Native voters. A consultant was hired to determine the percentages, and they came out higher than expected, resulting in not one single map presented meeting these percentages. Alaska constitutional issues are a moot point in regards to the Voting Rights Act. The plan is reviewed and approved for meeting the Act's standards by the Department of Justice. In 2001, the Alaska Supreme Court said in its redistricting ruling that the *"...Board had a valid non-discriminatory justification based on its forming an effective Native senate district to avoid retrogression under the Voting Rights Act."* It also said that *"...the 'fifth' Fairbanks district had to be paired south so that House District 5 could be paired with House District 6 to form an effective Native senate district to avoid retrogression under section five of the Voting Rights Act."*

3) The Alaska Constitution:

The state's Constitution requires that House districts "*be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.*" The new District 38 might not meet this standard, but since it is a district formed to comply with the Voting Rights Act, it may not be practicable for it to meet the state standards. Another point is that half a district in Fairbanks has to be combined with a non-borough-centric district. Any area the board chose would not have met the constitutional requirement, since the entire borough is surrounded by rural territory. The board had to choose from outlying areas, and it chose Ester, Goldstream and Salcha to combine with non-borough Districts.

The borough resolution bases its argument on the following "whereas": "*the proposed Redistricting Plan unnecessarily divides the half house district, consisting of 8,806 residents, between two separate districts*". In 2001, the Supreme Court held that dividing a borough among two House districts did not deny borough residents equal protection.

Finally, we need to address those who think that the borough will lose representation. We will now have seven House districts and four Senate districts containing borough residents. This greatly increases our delegation and influence. Opponents might say that if we have a legislator that doesn't live in the borough, that he won't adequately represent us.

First, one should not assume that just because a legislator doesn't live here that he won't do his job. Similarly, is the Borough Assembly not representing Gilmore Trail because none of the assembly members live there?

Second, borough voters will be a large voting block in the partial districts. Do you really think the legislator for that district will forget that?

Maybe the assembly should reconsider its resolution in light of the above overriding criteria. We could maybe spend the money more wisely on infrastructure, like the library roof. Please let the Assembly know your thoughts on the Million Dollar Mulligan.