

Alaska HB 126: What Changes for Alaska Native Corporations, Proxy Filings, and Annual Reports

by Bonnie J. Paskvan, Hannah Benson, and Danika Watson

Alaska House Bill 126 (HB 126), sponsored by Representative Neal Foster and passed by the 34th Alaska Legislature, is now law.

The bill changes which Alaska Native Corporations (ANCs) must file proxy and annual report materials with the State of Alaska, and makes it easier to reinstate certain dissolved Village Corporations. For many smaller Village Corporations, the practical result is less public disclosure. For shareholders, advisors, and the public, it means some financial information that used to be available through the State will no longer be readily obtained.

This eUpdate explains what HB 126 does in plain terms, walks through the practical trade-offs, and answers common questions.

1. What HB 126 Changes

The old rule

Under prior law (Alaska Statutes Sec. 45.55.139), an Alaska Native Corporation had to file its annual report, proxies, and proxy statements with the Alaska Division of Banking and Securities (the Division) if it had more than \$1 million in assets and 500 or more shareholders on its current rolls. A filing ANC was also required to follow the Division's proxy rules (3 AAC 08.305 through .365), which require specific disclosures such as top 5 executive compensation, and related-party transactions. Because these filings are treated as public records, they gave non-shareholders, including the public and the press, visibility into ANC financial information that is not filed with the SEC.

The new rule

HB 126 changes how the 500-shareholder test is measured. Now, the asset test is removed, and the shareholder count is based on how many shareholders the corporation originally enrolled when it was formed under the Alaska Native Claims Settlement Act

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(ANCSA), not how many it has today.

As shares have passed down through families over the decades, some Village Corporations that started with fewer than 500 shareholders now have more than 500 recordholders. Under the old current-count test, when those corporations had crossed the threshold, they had to file. Under the new original-enrollment test, they do not.

Who is affected

Village Corporations that originally enrolled fewer than 500 shareholders are the main beneficiaries. They no longer have to file proxy and annual report materials with the Division or follow the Division's proxy regulations at 3 AAC 08.305 through .365.

Two groups must continue to file as before: all twelve ANCSA Regional Corporations, each of which enrolled more than 500 shareholders at creation, and all Village Corporations that originally enrolled 500 or more shareholders.

As reported by the [Alaska Beacon](#), when the bill was under consideration, the Division identified 59 corporations then filing, expected at least seven village corporations to become exempt, and was reviewing roughly 30 more.

2. Practical Analysis

HB 126 reduces a real compliance burden for smaller Village Corporations, which now need not spend time and money on State filings. In coming years, the exempt Village Corporations may experience benefits associated with less public disclosure and less regulation. But at the same time, less public disclosure carries trade-offs.

Benchmarking will become harder

Publicly-filed proxy statements and annual reports have long served as a reference set. Shareholders, corporations, advisors, and counsel use them to compare governance practices, compensation, and financial results across similarly-situated ANCs. Since fewer of these materials will be filed publicly, there will be fewer comparable documents available, which will make benchmarking and market-checking more difficult for like-sized ANCs over time.

Executive compensation transparency may be reduced

The Division's proxy rules require disclosure of the compensation of ANC's top five most highly compensated individuals (3 AAC 08.345(b)(2)), related-party transactions above \$20,000 (3 AAC 08.345(b)(3)), and audited financial statements and management's discussion and analysis (3 AAC 08.365). When a corporation is no longer required to file these disclosures publicly, it becomes harder for shareholders and others to obtain the information, to understand how compensation is set for their corporate leadership, and how it compares across corporations of similar size and complexity.

Transparency may matter more as ANC's grow

Some ANC's have grown into large, complex enterprises with substantial revenue and many subsidiaries, even with fewer than 500 shareholders. For an ANC with a broad and dispersed shareholder base, public materials can be an important way for shareholders and other stakeholders to understand governance, compensation, and performance across ANC's. Reduced disclosure may carry more practical weight in those settings than for a small corporation whose shareholders are closely connected to the business.

The ANCSA annual report obligation continues

It is important not to overstate what HB 126 does. HB 126 changes the *state filing* proxy requirements. It does not remove the separate obligation under ANCSA itself. That obligation comes from ANCSA at 43 U.S.C. Sec. 1625(c), which requires a Native Corporation that would otherwise be subject to the Securities Exchange Act of 1934 to prepare and transmit *to its shareholders* an annual report containing substantially the information a company subject to that Act would include. Similarly, ANC's that solicit proxies for an annual meeting are still required to furnish shareholders with those proxy materials under general Alaska corporate law. However, ANC's are now no longer required to transmit proxy statements to the State. ANC's' reporting obligations to their shareholders are unaffected by HB 126.

Any corporation newly exempt from state filing still owes its shareholders a detailed annual report and a proxy statement, even though that report is no longer routed through the State and made public.

Reinstatement of dissolved Village Corporations

Separately, HB 126 amends AS 10.06.960(k) to remove the prior deadline (previously December 31, 2020) for reinstating an involuntarily dissolved Native Village Corporation. A dissolved Village Corporation may now apply to be reinstated under AS 10.06.633(e) at any time.

Reinstatement still runs through the commissioner under AS 10.06.633(e). In general, that means the ANC must apply, cure the neglect or delinquency that led to dissolution, and pay the amounts owed, and the corporation's name must be available or be changed to one that is. Once reinstated, the corporation and its shareholders are restored to the rights, privileges, liabilities, and obligations they would have had as if the dissolution had never occurred, and corporate and shareholder actions taken during the dissolution are treated as valid. If the previously-used corporate name is no longer available, the board alone may amend the articles to adopt a new name (without the necessity for shareholder approval).

3. Frequently Asked Questions

What does HB 126 do?

It changes how Alaska measures the 500-shareholder test that decides which ANC's

must file proxy and annual report materials with the state. It removes the asset test, and it counts shareholders based on original enrollment rather than the current rolls. It also removes the deadline for reinstating an involuntarily dissolved Native Village Corporation.

Which ANCs are affected?

Village Corporations that originally enrolled fewer than 500 shareholders, because they may no longer need to file with the Division. Regional Corporations and Village Corporations that originally enrolled 500 or more shareholders must continue to file as before.

Does HB 126 eliminate all reporting obligations?

No. It changes the state filing requirement under AS 45.55.139, but it does not remove the separate ANCSA obligation (43 U.S.C. Sec. 1625(c)) to provide shareholders with an annual report, and general corporate law still calls for a proxy statement when the ANC solicits proxies. Corporations that remain subject to state filing requirements must also continue to comply with the Division's rules.

We think we are now exempt. What should our ANC board and management consider?

Confirm your ANC's original enrollment number and whether your corporation falls below the new threshold. Watch for communications from the State on this topic as they proceed with their research. If your ANC is now exempt, decide how your corporation will meet its continuing ANCSA obligation to shareholders, review proxy and annual meeting materials and timelines, and consider what to communicate to shareholders about any change in how they will receive information. It is worth documenting the basis for any exemption.

What should ANC shareholders watch for?

Shareholders should watch for how and when they will continue to receive annual report and proxy statement information directly from their ANC, since some material that used to be available through the State's online website will no longer be publicly filed. If something is unclear, shareholders can ask their ANC how it intends to meet its ANCSA reporting obligations.

How Dorsey Can Help

HB 126 lightens the State filing load for smaller Village Corporations, but it also raises practical questions: confirming who is exempt, meeting continuing ANCSA obligations to shareholders, keeping proxy and annual meeting processes on track, and maintaining benchmarking when public materials become less available. These are exactly the kinds of judgment calls that benefit from early planning.

Dorsey's attorneys work closely with Alaska Native Corporations and related stakeholders. If you have questions about HB 126, ANC governance, proxy filings, annual reports, disclosure obligations, or shareholder communications, please contact your Dorsey attorney, including the authors of this eUpdate.