

# IRA offers significant advantages to villages

by Paul Swetzof  
for the Tundra Times

I've discussed in earlier columns the fact that the Alaska Supreme Court has recognized that federal law guarantees that tribes organized under the Indian Reorganization Act cannot lose their lands or other property for taxes or most other reasons without the consent of the tribe.

## OPINION

This includes developed as well as undeveloped lands.

In light of this decision I have heard from some villages, including some recognized as traditional governments, that they are thinking about reorganizing under the IRA.

Because of the significant advantages and protections guaranteed under the IRA, in addition to the land and property protections, I am printing the entire text of the IRA amendments of 1988 for villages to review.

I hope this helps villages decide whether they should organize under the IRA and whether current IRA governments wish to amend their constitutions and/or bylaws in order to exercise a greater degree of self-determination.

The 1988 amendments are, for the most part, self-explanatory.

As can be seen, the Interior secretary is required, once an election is held, to approve an IRA constitution and bylaws, including amendments to constitutions and bylaws, unless they are contrary to federal law as it applies to Indian law.

If the secretary doesn't approve the constitution and bylaws within 45 days, they become effective without his signature.

If the secretary finds that the constitution or bylaws are contrary to federal law, he must assist the tribe to bring the documents into compliance with federal law, not reject the entire package.

Following is the text of the IRA amendment, as it is published in 25 USCS, 476:

bylaws. (c)(1) The Secretary shall call and hold an election as required by subsection (a), (A) within 180 days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or (B) within 90 days after receipt of a tribal request for election to ratify an amendment to the constitution or bylaws. (2) During the time periods established by paragraph (1), the Secretary shall, (A) provide such technical advice and

45 days after the election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws. (2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the 45 days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate federal district court. (e) In addition to all powers vested in any Indian tribe or

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*"476. Organization of Indian tribes; constitution and bylaws; special election (a) any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when (1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the secretary under such rules and regulations as the Secretary may prescribe; and (2) approved by the Secretary pursuant to subsection (d) of this section. (b) Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) for the adoption of a constitution or*

*assistance as may be requested by the tribe or as the Secretary determines may be needed; and (B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws. (3) After the review provided in paragraph (2) and at least 30 days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws. (d)(1) If an election called under subsection (a) results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within*

*tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the federal, state and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates of federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress. (as amended Nov. 1, 1988, P.L. 100-581, Title I, 101, 102 Stat. 2938.)*