

LEGAL SERVICES

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MEMORANDUM

February 25, 2017

SUBJECT: Service areas in second class boroughs
(Work Order No. 30-LS0597\A)

TO: Representative Mike Chenault
Attn: Tom Wright

FROM: Susie Shutts 
Legislative Counsel

Attached is the bill draft you requested amending AS 29.35.490 to authorize a second class borough to establish a service area to provide emergency services within a state highway corridor if no voters reside in the service area and the property in the service area is not subject to a borough tax for the service area.

Do you want to define "state highway corridor"? There is no definition currently in the Alaska Statutes that would apply to the use of this term in AS 29.35.490.¹ In addition, do you want to set parameters on what "publicly owned property adjacent to the highway corridor" entails?

Is it your intent to allow a second class borough to provide emergency services outside the boundaries of the borough? The attached bill draft does not amend AS 29.35.020. Under AS 29.35.020, a municipality may, to the extent it is otherwise authorized by law, provide services, including emergency medical services, "outside its boundaries." The provision authorizes a municipality to regulate the "use and operation [of such services] to the extent that the jurisdiction in which they are located does not regulate them."² Under AS 29.35.020(b), before a municipality may exercise a power authorized by AS 29.35.020 within the boundaries of another municipality, "the approval of the other municipality must be given by ordinance," and approval is also required by a village.

¹ "Highway corridor" is defined for the purpose of AS 19.40.210(3) regarding a prohibition on the use of off-road vehicles within five miles of the James Dalton Highway. There, "highway corridor" is defined as "land within five miles of the right-of-way of the highway."

² AS 29.35.020(a).

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The proposed language that you provided requires that "property in the service area is not subject to a borough tax for the service area." Does this requirement aim to exclude from the emergency services service area property subject to *any* borough tax? I interpreted the request to instead prohibit a second class borough from authorizing or levying a tax for the provision of emergency services in a service area established under new subsection 29.35.490(d). Please let me know if that is not your intent.

SLS:boo
17-198.boo

Attachment