

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR HOFFMAN

Introduced:  
Referred:

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act ~~relating to third class~~creating energy boroughs."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 14.08.011(a) is amended to read:

4 (a) It is the purpose of this chapter to provide for public education in the  
5 unorganized borough, ~~third class~~energy boroughs, and the military reservations in  
6 the state.

7 \* **Sec. 2.** AS 14.08.031(a) is amended to read:

8 (a) The Department of Commerce, Community, and Economic Development,  
9 in consultation with the Department of Education and Early Development and local  
10 communities, shall divide **the area comprising** the unorganized borough **and third**  
11 **class**energy boroughs into educational service areas using the boundaries or sub-  
12 boundaries of the regional corporations established under the Alaska Native Claims  
13 Settlement Act, unless by referendum a community votes to merge with another  
14 community contiguous to it but within the boundaries or sub-boundaries of another  
15 regional corporation.

1 \* **Sec. 3.** AS 14.08.031(b) is amended to read:

2 (b) An educational service area established in **the area comprising** the  
 3 unorganized borough ~~and **third-class energy** boroughs~~ under (a) of this section  
 4 constitutes a regional educational attendance area. As far as practicable, each regional  
 5 educational attendance area shall contain an integrated socio-economic, linguistically  
 6 and culturally homogeneous area. In the formation of the regional educational  
 7 attendance areas, consideration shall be given to the transportation and communication  
 8 network to facilitate the administration of education and communication between  
 9 communities that comprise the area. Whenever possible, municipalities, other  
 10 governmental or regional corporate entities, drainage basins, and other identifiable  
 11 geographic features shall be used in describing the boundaries of the regional school  
 12 attendance areas.

13 \* **Sec. 4.** AS 14.08.071(a) is amended to read:

14 (a) In each regional educational attendance area in **the area comprising** the  
 15 unorganized borough ~~and **third-class energy** boroughs~~, the lieutenant governor,  
 16 within not less than 60, nor more than 90, days after the establishment of the regional  
 17 educational attendance area, shall provide for the election of a regional school board.

18 \* **Sec. 5.** AS 14.12.010 is amended to read:

19 **Sec. 14.12.010. Districts of state public school system.** The districts of the  
 20 state public school system are as follows:

21 (1) each home rule and first class city in the unorganized borough ~~or~~  
 22 **in a third-class energy borough** is a city school district;

23 (2) each **first class, second class, third class, or home rule**  
 24 [ORGANIZED] borough is a borough school district;

25 (3) the area outside **first class, second class, third class, or home rule**  
 26 [ORGANIZED] boroughs and outside home rule and first class cities is divided into  
 27 regional educational attendance areas.

28 \* **Sec. 6.** ~~AS 14.12.110 is amended to read:~~

29 ~~**Sec. 14.12.110. Single body as assembly and school board.** Notwithstanding~~  
 30 ~~the provisions of this chapter or other law, a single body may serve as both the~~  
 31 ~~assembly and school board in the manner provided **under (b) of this section** [FOR~~

~~THIRD CLASS BOROUGHS UNDER AS 29.20.300(b)], if~~

~~(1) an ordinance for that purpose is approved by the assembly and ratified by a referendum of a majority of the qualified borough voters voting on the question at a regular or special election; and~~

~~(2) the public school population within the borough is 500 pupils or less.~~

~~\* Sec. 7. AS 14.12.110 is amended by adding a new subsection to read:~~

~~(b) When a single body serves as both the assembly and the school board, the mayor is the presiding officer of the assembly and president of the school board. However, the mayor may not veto an action of the school board.~~

~~\* Sec. 8. AS 14.60.010(7) is amended to read:~~

~~(7) "regional educational attendance area" means an educational service area in the area comprising the unorganized borough and ~~third class~~energy boroughs, which may [OR MAY NOT] include a military reservation, and that contains one or more public schools with one or more grade levels of [GRADE LEVELS] K-12 [OR ANY PORTION OF THOSE GRADE LEVELS THAT ARE TO BE] operated under the management and control of a single regional school board;~~

\* ~~Sec. 9~~<sup>7</sup>. AS 23.40.250(8) is amended to read:

~~(8) "regional educational attendance area" means an educational service area in the area comprising the unorganized borough and ~~third class~~energy boroughs, which [THAT] may [OR MAY NOT] include a military reservation, and that contains one or more public schools with one or more grade levels of [GRADE LEVELS] K - 12 [OR ANY PORTION OF THOSE GRADE LEVELS THAT ARE TO BE] operated under the management and control of a single regional school board;~~

\* ~~Sec. 10~~<sup>8</sup>. AS 29.04.~~060(a)~~<sup>030</sup> is amended to read:

~~(a) A third class borough may reclassify as a Sec. first or second class borough in the manner provided by AS 29.35.320—29.35.330 for the addition of an areawide power by a first or second class borough, except the petition or proposal requests reclassification instead of requesting addition of a power. [AT THE TIME OF VOTING ON RECLASSIFICATION OF A THIRD CLASS BOROUGHS TO FIRST OR SECOND CLASS STATUS, VOTERS SHALL VOTE ALSO ON WHETHER~~

~~THE BOROUGH SHALL, ON RECLASSIFICATION, RETAIN A COMBINED ASSEMBLY AND SCHOOL BOARD OR ELECT A SEPARATE ASSEMBLY AND BOARD AS OTHERWISE PROVIDED FOR FIRST AND SECOND CLASS BOROUGH.~~

~~\*29.04.030. Classes of general law. General law municipalities are of six~~  
[FIVE] classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) third class boroughs;
- (4) energy boroughs;
- (5) [(4)] first class cities;
- (6) [(5)] second class cities.

\* Sec. 9~~Sec. 11.~~ AS 29.05.031(a) is amended to read:

(a) An area that meets the following standards may incorporate as a home rule, first class, [OR] second class, or third class energy borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

\* Sec. 12~~10.~~ AS 29.~~05.190(e)~~35.160(a) is amended to read:

1           ~~(c) **This** [EXCEPT AS PROVIDED IN (d) OF THIS SECTION, THIS]~~  
2           ~~section does not apply to a borough incorporated by consolidation or to a unified~~  
3           ~~municipality that occupies the area formerly occupied by a borough.~~

4           ~~\* **Sec. 13.** AS 29.06.090(a) is amended to read:~~

5           ~~(a) Two or more municipalities may merge or consolidate to form a single~~  
6           ~~general law or home rule municipality [, EXCEPT A THIRD CLASS BOROUGH~~  
7           ~~MAY NOT BE FORMED THROUGH MERGER OR CONSOLIDATION].~~

8           ~~\* **Sec. 14.** AS 29.06.470(a) is amended to read:~~

9           ~~(a) Except as provided in (b) of this section, voters of a municipality may~~  
10           ~~petition for dissolution when the municipality is free of debt, or, if in debt, each of its~~  
11           ~~creditors is satisfied with a method of repayment and~~

12                     ~~(1) the municipality no longer meets the minimum standards~~  
13                     ~~prescribed for incorporation by AS 29.05 [, OR FORMER AS 29.18.030 IF IT IS A~~  
14                     ~~THIRD CLASS BOROUGH];~~

15                     ~~(2) the municipality ceases to use each of its mandatory powers; or~~

16                     ~~(3) the dissolution petition filed under AS 29.06.460 is signed by a~~  
17                     ~~number of voters of the municipality proposed to be dissolved greater than 50 percent~~  
18                     ~~of the number of votes cast in the last regular election in that municipality.~~

19           ~~\* **Sec. 15.** AS 29.20.300(a) is amended to read:~~

20           ~~(a) Each municipal school district has a school board. **Members** [EXCEPT~~  
21           ~~AS PROVIDED IN (b) OF THIS SECTION, MEMBERS] of a school board are~~  
22           ~~elected at the regular election for three year terms and until their successors take~~  
23           ~~office. Members are elected at large unless a different method of election has been~~  
24           ~~approved by the voters in a regular election.~~

25           ~~\* **Sec. 16.** AS 29.35.160(a) is amended to read:~~

26           (a) Each **first class, second class, third class, and home rule** borough  
27           constitutes a borough school district and establishes, maintains, and operates a system  
28           of public schools on an areawide basis as provided in AS 14.14.060. A military  
29           reservation in a borough is not part of the borough school district until the military  
30           mission is terminated or until inclusion in the borough school district is approved by  
31           the Department of Education and Early Development. However, operation of the

1 military reservation schools by the borough school district may be required by the  
2 Department of Education and Early Development under AS 14.14.110. If the military  
3 mission of a military reservation terminates or continued management and control by a  
4 regional educational attendance area is disapproved by the Department of Education  
5 and Early Development, operation, management, and control of schools on the  
6 military reservation transfers to the borough school district in which the military  
7 reservation is located.

8 \* **Sec. 1711.** AS 29.35.220 is ~~repealed and reenacted~~ amended by adding a new section to  
9 article 3 to read:

10 ~~AS Sec. 29.35.220. Third class~~ 230. Energy borough powers. (a)

11 Notwithstanding any other provision of law, ~~a third class~~ an energy borough has only  
12 the following powers:

13 (1) to levy a property tax and impose a lien for its enforcement as  
14 provided in AS 29.45.020 - 29.45.500; on real and tangible personal property used to  
15 explore for, develop, or produce nonrenewable resources;

16 (2) to enter into an agreement with a taxpayer for the taxpayer to make  
17 a payment to the borough in lieu of taxes;

18 (3) to issue bonds to finance an energy infrastructure project in the  
19 borough; the borough may only borrow money and issue evidence of indebtedness for  
20 this purpose;

21 (4) to enact and enforce an ordinance necessary to carry out its powers  
22 under this subsection and to prescribe a civil penalty for violation of an ordinance.

23 (b) The legislative power of ~~a third class~~ an energy borough shall be vested in  
24 the assembly under AS 29.20.050 - 29.20.180. The assembly shall enact and enforce  
25 ordinances under AS 29.25.010 - 29.25.075, except that ~~a third class~~ an energy  
26 borough may not prescribe or enforce a penalty of imprisonment for violation of an  
27 ordinance.

28 (c) Notwithstanding any other provision of law, ~~a third class~~ an energy  
29 borough may not acquire or exercise any power not listed under (a) of this section.

30 ~~\* Sec. 18. AS 38.05.037(a) is amended to read:~~

31 ~~(a) In areas of the state outside first or [,] second [, OR THIRD] class~~

~~boroughs where there is no municipality with a zoning power, the division of lands shall exercise the zoning power by adopting zoning regulations.~~

~~\* Sec. 19. AS 46.14.400(a) is amended to read:~~

~~(a) With the approval of the department, a municipality may establish and administer within its jurisdiction a local air quality control program that operates in lieu of and is consistent with all or part of the department's air quality program as established under this chapter. A first or second class borough may administer an air quality control program approved by the department under this subsection on an areawide basis and is not subject to the restrictions for acquiring additional areawide powers specified in AS 29.35.300–29.35.350. [A THIRD CLASS BOROUGH MAY ADMINISTER A LOCAL AIR QUALITY CONTROL PROGRAM APPROVED BY THE DEPARTMENT UNDER THIS SUBSECTION ONLY IN A SERVICE AREA FORMED UNDER AS 29.35.490(b) OR (c).]~~

~~\* Sec. 20. AS 14.12.110; AS 29.04.060(b), 29.04.060(c); AS 29.05.031(b), 29.05.190(d); AS 29.10.080(b); and AS 29.20.300(b) are repealed.~~