

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 16(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/1/01

Referred: Finance

Sponsor(s): REPRESENTATIVES DYSON, Meyer, Guess, Cissna, Croft, James

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to cities incorporated under state law that are home rule communities;**
2 **and providing for an effective date."**

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

4 *** Section 1.** AS 01.10.060(a)(4) is amended to read:

5 (4) "municipality" means a political subdivision incorporated under the
6 laws of the state that is a **home rule community**, a home rule or general law city, a
7 home rule or general law borough, or a unified municipality;

8 *** Sec. 2.** AS 01.10.060(a) is amended by adding a new paragraph to read:

9 (15) "city" means a home rule community, home rule city, or general
10 law city incorporated under the laws of the state.

11 *** Sec. 3.** AS 29.04.040(a) is amended to read:

12 (a) A second class city may be reclassified as a first class city. A first class or
13 home rule city may be reclassified as a second class city. **A home rule community**
14 **may be reclassified as a home rule city.** Reclassification is proposed by filing a

1 petition with the department. The department shall investigate the proposal and report
 2 its findings to the Local Boundary Commission with its recommendations. The
 3 commission shall hold at least one public hearing in the city on the proposal. The
 4 commission may amend the petition and may impose conditions on the
 5 reclassification. If the commission determines that the reclassification, as amended or
 6 conditioned if appropriate, meets applicable standards under the state constitution and
 7 commission regulations, meets the standards for incorporation under AS 29.05.011 for
 8 the class of city proposed in the reclassification petition, and is in the best interests of
 9 the state, it may accept the petition. Otherwise, it shall reject the petition. The
 10 commission shall notify the city of its decision. The decision may be appealed under
 11 AS 44.62 (Administrative Procedure Act).

12 * **Sec. 4.** AS 29.04.040(d) is amended to read:

13 (d) The council shall, within 30 days after receiving notification from the
 14 Local Boundary Commission that a petition has been accepted, order an election on
 15 the question of reclassification. The election shall be held at least 30 days after the
 16 order and not later than the next regular election occurring after the 30-day period. If
 17 more than one question is to be voted on at the election, each shall appear separately
 18 on the ballot. **However, if reclassification from a home rule community to a home**
 19 **rule city requires adoption of a new charter, the question of approving the**
 20 **charter and the reclassification may appear as a single question.**

21 * **Sec. 5.** AS 29.05.011(b) is amended to read:

22 (b) A community that meets all the standards under (a) of this section except
 23 (a)(1) may incorporate as a second class city **or a home rule community.**

24 * **Sec. 6.** AS 29.05.060 is amended to read:

25 **Sec. 29.05.060. Petition.** Municipal incorporation is proposed by filing a
 26 petition with the department. The petition must include the following information
 27 about the proposed municipality:

- 28 (1) class;
- 29 (2) name;
- 30 (3) boundaries;
- 31 (4) maps, documents, and other information required by the

1 department;

2 (5) composition and apportionment of the governing body;

3 (6) a proposed operating budget for the municipality projecting sources
4 of income and items of expenditure through the first full fiscal year of operation;

5 (7) for a borough or unified municipality, based on the number who
6 voted in the respective areas in the last general election, the signature and resident
7 address of 15 percent of the voters in

8 (A) home rule and first class cities in the area of the proposed
9 borough or unified municipality; and

10 (B) the area of the proposed borough or unified municipality
11 outside home rule and first class cities;

12 (8) for a first class borough or unified municipality, a designation of
13 areawide powers to be exercised;

14 (9) for a second class borough, a designation of areawide and
15 nonareawide powers to be exercised;

16 (10) for a **home rule community or** first class, second class, or home
17 rule city, a designation of the powers to be exercised;

18 (11) for a first class or home rule city, based on the number who voted
19 in the area in the last general election, the signatures and resident addresses of 50
20 voters in the proposed city or of 15 percent of the voters in the proposed city,
21 whichever is greater;

22 (12) for a second class city **or home rule community**, based on the
23 number who voted in the area in the last general election, the signatures and resident
24 addresses of 25 voters in the proposed city or of 15 percent of the voters in the
25 proposed city, whichever is greater;

26 (13) for a **home rule community**, home rule city, home rule borough,
27 or unified municipality, a proposed home rule charter.

28 * **Sec. 7.** AS 29.10.010(a) is amended to read:

29 (a) A general law borough [OR FIRST CLASS CITY] may adopt a charter for
30 its own government. **A first class city may adopt a charter and become a home**
31 **rule city. A second class city may adopt a charter and become a home rule**

1 **community.**

2 * **Sec. 8.** AS 29.10.010(c) is amended to read:

3 (c) At an incorporation, merger, or consolidation election, a municipality may
4 adopt a charter for its own government and incorporate, merge, or consolidate as a
5 **home rule community,** home rule city, **home rule** borough, or unified municipality.

6 * **Sec. 9.** AS 29.10.010(f) is amended to read:

7 (f) The proposed charter for a home rule municipality to be formed by
8 incorporation, merger, or consolidation shall be prepared by the petitioners and filed
9 with the petition to incorporate, merge, or consolidate a **home rule community,** home
10 rule city, **home rule** borough, or unified municipality.

11 * **Sec. 10.** AS 29.10.020 is amended to read:

12 **Sec. 29.10.020. Model charters.** The department shall prepare at least one
13 model home rule charter for **a home rule community,** a city, **a** borough, and **a** unified
14 municipality. The model charters shall be made available to persons interested in
15 filing a petition to form a home rule municipality under AS 29.05.060 or
16 AS 29.06.090.

17 * **Sec. 11.** AS 29.20.640(a) is amended to read:

18 (a) A municipality shall file with the department
19 (1) maps and descriptions of all annexed or detached territory;
20 (2) a copy of the annual audit, or, for a second class city **or a home**
21 **rule community,** an audit or statement of annual income and expenditures;
22 (3) tax assessment and tax levy figures as requested;
23 (4) a copy of the current annual budget of the municipality;
24 (5) a summary of the optional property tax exemptions authorized
25 together with the estimate of the revenues lost to the municipality by operation of each
26 of the exemptions.

27 * **Sec. 12.** AS 29.35.030(a) is amended to read:

28 (a) A municipality may, only within its boundaries, exercise the powers of
29 eminent domain and declaration of taking in the performance of a power or function of
30 the municipality under the procedures set out in AS 09.55.250 - 09.55.460. In the case
31 of a **home rule community or a** second class city, the exercise of the power of

1 eminent domain or declaration of taking must be by ordinance that is submitted to the
 2 voters at the next general election or at a special election called for that purpose. A
 3 majority of the votes on the question is required for approval of the ordinance.

4 * **Sec. 13.** AS 29.35.120(a) is amended to read:

5 (a) The governing body shall provide for an annual independent audit of the
 6 accounts and financial transactions of the municipality or, in the case of a **home rule**
 7 **community or** second class city, an audit or statement of annual income and
 8 expenditures. To make the audit, the governing body shall designate a public
 9 accountant who has no personal interest, direct or indirect, in the fiscal affairs of the
 10 municipality. Copies of the audit shall be available to the public upon request.

11 * **Sec. 14.** AS 29.35.250(c) is amended to read:

12 (c) A home rule city in a third class borough shall provide for planning,
 13 platting, and land use regulation as provided by AS 29.35.180(b) for home rule
 14 boroughs. A first class city in a third class borough shall provide for planning,
 15 platting, and land use regulation as provided by AS 29.35.180(a) for first and second
 16 class boroughs. A **home rule community or** second class city in a third class
 17 borough may provide for planning, platting, and land use regulation as provided by
 18 AS 29.35.180(a) for first and second class boroughs.

19 * **Sec. 15.** AS 29.35.260(b) is amended to read:

20 (b) A home rule or first class city outside a borough is a city school district
 21 and shall establish, operate, and maintain a system of public schools as provided by
 22 AS 29.35.160 for boroughs. A **home rule community or** second class city outside a
 23 borough is not a school district and may not establish a system of public schools.

24 * **Sec. 16.** AS 29.35.260(c) is amended to read:

25 (c) A home rule city outside a borough shall provide for planning, platting,
 26 and land use regulation as provided by AS 29.35.180(b) for home rule boroughs. A
 27 first class city outside a borough shall, and **a home rule community or** a second class
 28 city outside a borough may, provide for planning, platting, and land use regulation as
 29 provided by AS 29.35.180(a) for first and second class boroughs.

30 * **Sec. 17.** AS 29.45.590 is amended to read:

31 **Sec. 29.45.590. Limited property taxing power for home rule communities**

1 **and second class cities.** A **home rule community or** second class city may by
 2 referendum levy property taxes as provided for first class cities. However, levy of an
 3 ad valorem tax by a **home rule community or** second class city may not exceed two
 4 percent of the assessed value of the property taxed, except that the limit does not apply
 5 to a levy necessary to avoid a default upon payment of principal and interest of bonded
 6 or other indebtedness that is secured by a pledge to levy ad valorem or other taxes
 7 without limit to meet debt payments.

8 * **Sec. 18.** AS 29.60.030(e) is amended to read:

9 (e) In addition to the computation for municipalities that levy and collect a
 10 property tax, the department shall determine an estimated full and true assessed
 11 property value under (d) of this section for

12 (1) each municipality that is a school district and that does not levy and
 13 collect a property tax;

14 (2) each second class city **or home rule community** with a population
 15 of 750 or more persons; however, a computation is not required under this paragraph
 16 more often than once during a period of three successive calendar years; and

17 (3) all other second class cities **and home rule communities,** by
 18 determining the average per capita full and true assessed property value of all cities
 19 having a population of less than 750 persons in which an assessment has been
 20 completed by a municipality or for which a determination is not made under (1) or (2)
 21 of this subsection.

22 * **Sec. 19.** AS 29.71.800(4) is amended to read:

23 (4) "city" means a general law first or second class city, [OR] a home
 24 rule city, **or a home rule community;**

25 * **Sec. 20.** AS 29.71.800(13) is amended to read:

26 (13) "municipality" means a political subdivision incorporated under
 27 the laws of the state that is a **home rule community, a** home rule or general law city,
 28 a home rule or general law borough, or a unified municipality;

29 * **Sec. 21.** AS 29.71.800 is amended by adding a new paragraph to read:

30 (26) "home rule city" means a city that has adopted a charter but does
 31 not include a home rule community.

1 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 CONFORMING BILL. The division of legal and research services of the Legislative
4 Affairs Agency shall prepare a bill conforming Alaska Statutes to the changes made by this
5 Act. Except as provided in this Act, mandatory statutes that apply to municipalities shall be
6 changed so that home rule communities are treated in the same way that second class cities
7 are treated, while statutes that grant home rule municipalities discretion to perform a function
8 or participate in a program shall be changed so that home rule communities are treated in the
9 same way that home rule cities are treated. The bill shall be presented to the House and
10 Senate Rules Committees for introduction by those committees on the first day of the Second
11 Regular Session of the Twenty-Second Alaska State Legislature.

12 * **Sec. 23.** Sections 1 - 21 of this Act take effect on the effective date of a bill prepared and
13 introduced under sec. 22 of this Act that becomes law.

14 * **Sec. 24.** Section 22 of this Act takes effect immediately under AS 01.10.070(c).