

BY SENATE COMMITTEE ON
TERRITORIAL AFFAIRS

1 IN THE HOUSE

2 SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO., 176

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-THIRD SESSION

5 A BILL

6 For an Act entitled: "An Act relating to annexation and exclusion
7 of areas by municipalities; and repealing
8 Sec. 16-1-21, ACLA 1949, Sec. 16-1-22,
9 ACLA 1949, as amended by Ch. 7, SLA 1951,
10 and Ch. 25, SLA 1953; Sec. 16-1-23, ACLA
11 1949; Sec. 16-1-24, ACLA 1949, as amended
12 by Ch. 7, SLA 1951; Ch. 25, SLA 1953 and
13 Ch. 149, SLA 1955; Secs. 16-1-25 through
14 16-1-27, ACLA 1949; and Sec. 16-1-28,
15 ACLA 1949, as amended by Ch. 25, SLA 1953,"

16 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

17 Section 1. SHORT TITLE. This Act shall be referred to as
18 "The Annexation Act of 1967."

19 Sec. 2. DEFINITIONS: As used in this Act the terms defined
20 herein shall have the meanings provided, unless context clearly
21 requires otherwise:

22 (1) "Alaska" means the Territory of Alaska or in the
23 event of Statehood the State of Alaska.

24 (2) "Annexing City" means the city seeking to annex
25 or annexing an area of lands contiguous to the city.

26 (3) "Area" means any lands, not heretofore incorporated
27 as a city, lying contiguous to an annexing city, including such
28 lands separated from any annexing city by water or by tide or
29 shore lands.

30 SCS for HB #176

Re-enrolled as amended by the Senate

1 (4) "Council" means the common council of the annexing
2 city.

3 (5) "Substantial property interest" means any interest
4 in real property or tidelands, or possessory rights therein, or
5 improvements thereon, and shall further include leaseholds of
6 one year or more, equities created by contracts of purchase and
7 sale, mining locations, and rights of adverse possession to
8 either real property or tidelands, but shall not include such
9 interests as month-to-month tenent or ownership of or other
10 interest in trailers, wigwags, or other shelters or structures
11 not permanently fixed to the real property to tidelands.

12 Sec. 3. PETITION FOR ANNEXATION. Upon the initiative of
13 interested persons residing within an area contiguous to the
14 municipality, a petition may be circulated within the area propos-
15 ed to be annexed requesting that such annexation be made. The
16 petition shall include:

17 (1) A concise written statement of its purpose,
18 (2) A legal description, as determined by an actual
19 survey, of the boundaries of the area proposed to be annexed,
20 and

21 (3) The estimated number of owners of substantial
22 property interest within the area.

23 Whenever the petition has been signed by 30% or more of the
24 owners of substantial property interests it may be presented to the
25 Council, who shall fix a date for public hearing thereon at which
26 time any voter of the city or any person owning a substantial
27 property interest in the area proposed to be annexed, may appear
28 and be heard. The Council shall cause notice of the hearing to be
29 published once each week for two successive weeks, prior to the

1 date of hearing, in a newspaper of general circulation in the
2 city, or if there be no such newspaper in the city, then such
3 notice shall be published in a newspaper nearest to the city
4 proposing such annexation, and shall cause notices of the hearing
5 to be posted in two public places in the city and in two public
6 places in the area proposed to be annexed for a like period.

7 After the hearing the Council may by resolution, passed by
8 an affirmative vote of the majority of the Council members, declare
9 an intention to accept and consent to the proposed annexation or
10 it may dismiss the petition and deny the proposed annexation.

11 In the event it declares an intention to accept and consent
12 to the proposed annexation it shall set forth in such resolution:

13 (1) A legal description of the area in question,

14 (2) A detailed statement of the terms and conditions
15 upon which the annexation shall be agreed to, the intended future
16 improvements, if any, and services, if any, to be afforded the
17 annexed area and an estimated tax rate or other assessments, if
18 any, to be levied for a fixed period of time to be determined by
19 the Council in the area sought for the purposes of rendering such
20 improvements and services, and

21 (3) The proposed effective date of the annexation.

22 In the event the area, or any part thereof, to be annexed is
23 situated within a public utility district and is subject to any
24 existing or contingent obligations, the city shall also include in
25 its resolution a statement setting forth:

26 (1) each obligation of the district, by name and amount;

27 (2) each such obligation or part thereof, if any, by
28 name and amount, to be assumed by the city; and

29 (3) any liability, contingent or otherwise, which shall

1 subject the property, included in the area to be annexed, to
2 assessment or other legal action, to assure payment of such
3 liability.

4 Sec. 4. PUBLICATION OF RESOLUTION. A copy of the resolution
5 shall be published at least once a week for four successive weeks
6 in a newspaper of general circulation in the city and such reso-
7 lution shall be posted in two public places in the city for a
8 like period.

9 Sec. 5. FILING OF OBJECTION BY OWNER. Any owner of sub-
10 stantial property interest residing within the city or the area
11 proposed to be annexed may protest the annexation within 60 days
12 of its enactment by filing with the City Clerk a written notice of
13 objection.

14 Sec. 6. PROCEDURE IF NO OBJECTION. In the event no objection
15 is filed within sixty (60) days after the enactment of the resolu-
16 tion, the Council may, by ordinance, and within twelve months
17 after the expiration of the final date allowing such an objection
18 to be filed, incorporate and adopt all the provisions of the
19 resolution, consenting to the proposed annexation, and declare the
20 area annexed to the city on a date certain, but not later than 90
21 days after passage of the ordinance.

22 Sec. 7. ELECTION IN EVENT OF OBJECTION. In the event an
23 objection is filed within the time allowed, the Council shall,
24 by ordinance, order an election to be held in the area to be
25 annexed.

26 Sec. 8. QUALIFICATIONS OF ELECTORS. The qualifications of
27 an elector shall be as follows:

28 (1) An elector shall be a person of the age of twenty-
29 one years or more;

1 (2) An elector shall have been a resident of Alaska
2 for not less than one year;

3 (3) An elector shall have been a resident of the area
4 to be annexed for not less than thirty days prior to the election;
5 and

6 (4) An elector shall be the owner of a substantial
7 property interest within the area proposed to be annexed.

8 Sec. 9. ELECTION: NOTICE: BALLOTS: ELECTION JUDGES AND
9 CLERKS: CANVASS CERTIFICATE:

10 (1) The Council of such city shall thereupon submit
11 the question to the electors in the area proposed to be annexed
12 to such city in accordance with its ordinance. Such question
13 shall be submitted at a general or special election to be held
14 for that purpose;

15 (2) Such Council shall give notice thereof, by publi-
16 cation in a newspaper of general circulation in such area so
17 proposed to be annexed or nearest thereto, for a period of four
18 weeks prior to such election; also by posting notice thereof in
19 three public places within the area for a like period. Such
20 notices shall be posted and the first publication of such notice
21 in the newspaper shall be at least four weeks before the election.
22 Such notice shall distinctly state (a) the proposition to be so
23 submitted, (b) shall designate specifically the boundaries of the
24 area so proposed to be annexed, (c) shall give a detailed state-
25 ment of the terms and conditions upon which the annexation is to
26 be agreed to, identifying the future improvements to be made, if
27 any, the services to be afforded the annexed area, if any, the
28 tax rate or other assessments to be levied, if any, for a period
29 determined by the Council next preceding in the area sought for

SGS for HB #176
Re-engrossed as amended by the Senate

1 the purpose of rendering such improvements and services, (d)
2 each obligation of the district, by name and amount; each such
3 obligation or part thereof, if any, by name and amount, to be
4 assumed by the city and any liability, contingent or otherwise,
5 which shall subject the property, included in the area to be
6 annexed, to assessment or other legal action, to assure payment
7 of such liability, and (e) the proposed effective date of the
8 annexation.

9 (3) The electors shall be invited thereby to vote upon
10 such proposition by placing upon their ballots the words "for
11 annexation to the city of _____" or "against
12 annexation to the city of _____", or words
13 equivalent thereto;

14 (4) Such Council shall also designate the time and
15 place or places at which the polls will be open within the area
16 proposed to be annexed, which place or places shall be those
17 usually used for that purpose within such area, if any such there
18 be;

19 (5) Such Council shall also appoint the judges and
20 clerks of election. The judges and clerks before entering upon
21 the discharge of their duties at such election shall each take
22 and subscribe before an officer authorized to administer the
23 same, an oath for the honest and faithful discharge of his or
24 her duties as such judge or clerk. In case of the absence or
25 inability of any judge or clerk appointed to act at such election,
26 the qualified electors present at the polls before proceeding to
27 vote, may choose an elector to act in his or her place from among
28 their number, who shall duly qualify as aforesaid before entering
29 upon the discharge of his or her duties as judge or clerk at such

1 election;

2 (6) Such Council shall meet on the Monday next succeed-
3 ing the day of such election at one o'clock p.m. or as soon there-
4 after on the same day, as possible, and canvass the votes cast
5 thereat, and the Council shall issue under their hands, and the
6 seal of the city, a certificate showing the number of votes cast
7 in favor of annexation and the number of votes cast against the
8 annexation;

9 (7) Said certificate together with all the ballots cast
10 and the oaths of the judges and clerks of election shall immediate-
11 ly be filed with the city.

12 Sec. 10. DECLARATION OF ANNEXATION. If it shall appear to
13 the Council from the certificate of election filed as aforesaid
14 that a majority of the votes cast at said election were in favor
15 of annexation, then the Council shall by an ordinance duly passed

16 (1) incorporate and adopt all the terms and conditions
17 upon which the annexation has been agreed to by the Council and
18 ratified by a majority of those voting;

19 (2) each obligation of the district, by name and
20 amount; each such obligation or part thereof, if any, by name and
21 amount, to be assumed by the city; and any liability, contingent
22 or otherwise, which shall subject the property, included in the
23 area to be annexed, to assessment or other legal action, to assure
24 payment of such liability;

25 (3) specifically restate the boundaries of the area
26 annexed; and

27 (4) formally declare such annexation of the area, and
28 the area shall thereafter be a part of the city. Provided, however,
29 that nothing herein shall be construed to interfere with the normal

SCS for HB #176
Re-engrossed as amended by the Senate

1 operation and maintenance of any public or private utility
2 company or association to continue in business, in its usual
3 manner, unless prohibited from such activities through due process
4 of law.

5 Sec. 11. COST OF ANNEXATION. The costs of annexation pro-
6 ceedings whenever the petition is instituted by the city shall
7 be borne by the city.

8 Sec. 12. ENFORCEMENT OF ANNEXATION TERMS AND CONDITIONS.
9 Any owner of a substantial property interest may request the
10 Attorney General to petition the appropriate Court to issue such
11 legal process as may be necessary to compel performance of any
12 term or condition of annexation set forth in the applicable
13 ordinance or ordinances. The Attorney General may, for good
14 cause, decline, in whole or in part, any such request, whereupon
15 the owner of a substantial property interest may petition the
16 Court for such relief as it deems equitable and proper, and the
17 Court in exercising its discretion may enforce, rescind, amend
18 or modify the applicable ordinance or ordinances; provided, how-
19 ever, no such action shall be instituted any time after 90 days
20 has elapsed following the time fixed in the ordinance for the
21 performance of any term or condition therein.

22 Sec. 13. REVIEW BY COURT. Any action of the Council shall
23 be subject to review in the appropriate court in such matters
24 coming within its jurisdiction in the same manner as provided with
25 respect to other actions of law.

26 Sec. 14. ANNEXATION OF CITY-OWNED PROPERTY. The Council
27 may annex by ordinance any property owned by the city and situated
28 adjacent to the city boundaries.

29 Sec. 15. PROCEEDINGS FOR EXCLUSION OF AN AREA. Any area

1 may be excluded from any city in the same manner and following
2 the same procedure as in the case of annexation, except that if
3 the area is to be excluded, the petition to be filed shall be
4 signed by a majority of property owners as herein defined, owning
5 property within the area sought to be excluded, and the electors
6 shall be invited to vote upon such proposition by placing upon
7 their ballots the words "for exclusion from the city of _____,"
8 or "against exclusion from the city of _____," and the
9 votes shall be canvassed, the results of the election certified
10 and all other steps taken in like manner as provided in this
11 Act for the annexation of any area.

12 Sec. 16. REPEALER. The following Acts or parts thereof,
13 or any other Acts or parts thereof inconsistent with this Act,
14 are hereby repealed: Sec. 16-1-21, ACLA 1949; Sec. 16-1-22,
15 ACLA 1949, as amended by Ch. 7, SLA 1951, and Ch. 25, SLA 1953;
16 Sec. 16-1-23, ACLA 1949; Sec. 16-1-24, ACLA 1949, as amended by
17 Ch. 7, SLA 1951; Ch. 25, SLA 1953; and Ch. 149, SLA 1955; Secs.
18 16-1-25 through 16-1-27, ACLA 1949; and Sec. 16-1-28, ACLA 1949,
19 as amended by Ch. 25, SLA 1953.

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