

1 IN THE SENATE

BY SENATOR MOODY
BY REQUEST

2 SENATE BILL NO. 127

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-THIRD SESSION

5 A BILL

6 For an Act entitled: "An Act revising those laws relating to
7 annexation and exclusion by municipalities;
8 establishing procedures for annexation of
9 lands, contiguous to cities, and located in
10 Public Utility Districts or unincorporated
11 areas; and repealing Sec. 16-1-21, ACLA 1949,
12 Sec. 16-1-22, ACLA 1949, as amended by
13 Ch. 7 SLA 1951, and Ch. 25 SLA 1953; Sec.
14 16-1-23, ACLA 1949; Sec. 16-1-24, ACLA 1949,
15 as amended by Ch. 7, SLA 1951, Ch. 25, SLA
16 1953, and Ch. 149, SLA 1955; Secs. 16-1-25
17 through 16-1-27, ACLA 1949; and Sec. 16-1-28,
18 ACLA 1949, as amended by Ch. 25, SLA 1953."

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

20 TITLE I

21 SHORT TITLE, DEFINITIONS AND GENERAL AUTHORITY

22 Section 1. SHORT TITLE. This Act shall be referred to as
23 "the Annexation Act of 1957."

24 Sec. 2. DEFINITIONS. For the purpose of this Act, unless
25 the context requires otherwise, the following definitions shall
26 apply:

27 (1) "Alaska" means the Territory of Alaska or in the
28 event of Statehood the State of Alaska.

29 (2) "Annexing City" means that city seeking to annex

1 or annexing an area of lands contiguous to the city.

2 (3) "Area" means any lands, not heretofore incorpor-
3 ated as a city, lying contiguous to an annexing city, including
4 such lands separated from any annexing city by water or by tide
5 or shore lands.

6 (4) "Commissioner" means the United States Commissioner
7 acting as a justice of the peace.

8 (5) "Council" means the common council of the annexing
9 city.

10 (6) "District" means a Public Utility District organ-
11 ized under the laws of Alaska.

12 (7) "Governing body" means the Board of Directors of
13 a Public Utility District.

14 (8) "Property owner" means the fee owner of record of
15 real property or any person of record having an interest of at
16 least fifty percent in the real property as tenants-in-common,
17 joint tenants or tenants by the entirety, or the contract pur-
18 chaser of record or any person holding the greater possessory
19 interest in tidelands.

20 (9) "Resident Property Owner" means any natural
21 person of the age of twenty-one years or older who is a property
22 owner and is recognized by the governing body of the District as
23 being a resident therein.

24 (10) "Substantial property interest" means any interest
25 in real property or tidelands, or possessory rights therein, or
26 improvements thereon, and shall further include leaseholds of
27 one year or more, equities created by contracts of purchase and
28 sale, mining locations, and rights of adverse possession to either
29 real property or tidelands, but shall not include such interests

1 Such hearing notice shall be posted and shall be published
2 at least four weeks before the hearing. Such notice shall dis-
3 tinctly state the proposition to be discussed; shall specifically
4 designate the boundaries of the area proposed to be annexed, and,
5 if possible, shall contain a map or plat showing such area, as
6 finally determined.

7 Sec. 3. DETERMINATION OF ANNEXATION. At the hearing the
8 Council shall give all interested parties a fair and reasonable
9 opportunity to be heard and to offer evidence upon the reason-
10 ableness of including the area or any part thereof in the pro-
11 posed annexation. In making its determination the Council shall
12 consider:

13 (1) Whether the area proposed to be annexed reasonably
14 and fairly embraces a compact area of population and a compact
15 body of land having a present physical and common interest with
16 the annexing city, and

17 (2) Whether the proposed annexation unreasonably affects
18 the welfare of residents living in the area to be annexed.

19 Based upon the evidence introduced, the Board shall issue an
20 ordinance adopting or rejecting the petition. In the event the
21 petition is rejected, no annexation proceedings relating to the
22 same area or any part thereof may be reconsidered for a period
23 of one year thereafter.

24 In the event the petition is adopted, the Council shall
25 order an election to be held: (1) within the area to be annexed,
26 and (2) within the city; provided, however, that the Council
27 may dispense with such election by appropriate ordinance or
28 resolution consenting, on behalf of the city, to the proposed
29 annexation.

1 Sec. 4. ELECTION; NOTICE; BALLOTS; ELECTION JUDGES AND
2 CLERKS. Upon the Council ordering an election the proposal of
3 annexation may be submitted to the electors of the city and shall
4 be submitted to the electors residing in the area proposed to be
5 annexed. Such proposition may be submitted at a general election
6 or at a special election held for such purpose.

7 The Council shall cause notice of such election to be posted
8 in at least three of the most public places in both; (1) the
9 annexing city and (2) within the area sought to be annexed. If
10 a newspaper be published in said annexing city, a notice shall be
11 published at least three times in such paper. Such newspaper
12 notice shall be printed therein at least four weeks before the
13 hearing. Such notice shall distinctly state the proposition to
14 be submitted; shall designate specifically the boundaries of the
15 area proposed to be annexed, and, if possible, shall contain a
16 map or plat showing such area, as finally determined.

17 The notice shall also contain the time and place or places
18 at which the polls will be open within the annexing city and in
19 such area so proposed to be annexed, which place or places shall
20 be those usually used for that purpose. The electors shall be
21 invited thereby to vote upon such proposition by placing upon
22 their ballots the words "for annexation to the city of"
23 or "against annexation to the city of....." or words
24 equivalent thereto.

25 The Council shall appoint and designate the names of the
26 judges and clerks of election. The judges and clerks before
27 entering upon the discharge of their duties at such election shall
28 each take and subscribe before an officer authorized to administer
29 the same, an oath for the honest and faithful discharge of his or

1 her duties as such judge or clerk. In the event of the absence
2 or inability of any judge or clerk appointed to act at such elec-
3 tion, the qualified electors present at the polls before proceed-
4 ing to vote, may choose an elector to act in his or her place
5 from among their number, who shall duly qualify as aforesaid be-
6 fore entering upon the discharge of his or her duties as judge
7 or clerk at such election.

8 Sec. 5. QUALIFICATIONS OF ELECTORS. The Qualifications of
9 an elector in an election held under this Act shall be as follows:

10 (1) To vote in the area to be annexed he or she shall
11 (a) be a person of the age of twenty-one years or more, (b) be
12 the owner of a substantial property interest within the area to
13 be annexed, (c) have been a resident of Alaska for not less than
14 one year prior to the election and (d) have been a resident of
15 said area for not less than thirty days prior to the election.

16 Sec. 6. CANVASS OF BALLOTS: CERTIFICATE. The Council shall
17 meet on the Monday next succeeding the day of such election at
18 one o'clock p.m. and publicly canvass the votes cast thereat,
19 and the Council shall issue under their hands, and the seal of
20 the city, a certificate showing the number of votes cast in favor
21 of annexation and the number of votes cast against the annexation,
22 separately stating the number of votes for annexation and the
23 number of votes against annexation in the annexing city and in
24 the area sought to be annexed. Said certificate together with
25 all the ballots cast and the oaths of the judges and clerks of
26 election shall immediately be filed with the City Clerk.

27 Sec. 7. DECLARATION OF ANNEXATION. If it shall appear
28 to the Council from the certificate of election filed with the
29 City Clerk as aforesaid, that a majority of the votes cast at

1 said election in the area sought to be annexed were in favor of
2 annexation and that a majority of the votes cast in the city were
3 also in favor of the annexation, or that an ordinance was duly
4 passed in favor of the annexation and that the provisions of law
5 relating to annexation have been substantially complied with,
6 then the Council shall by ordinance declare such annexation and
7 the said area shall be a part of the city at such time.

8 TITLE III

9 ANNEXATION OF AREA WITHIN A PUBLIC UTILITY DISTRICT

10 Section 1. CIRCULATION OF PETITION; CONTENTS THEREIN.

11 Whenever the Council of any city shall desire to enlarge the
12 boundaries of said city by annexing an area situated within
13 a public utility district, the Council shall prepare a petition
14 or petitions and cause the same to be circulated within the area
15 proposed to be annexed. Such petition or petitions shall include:

- 16 (1) A concise written statement of its purpose,
17 (2) A legal description of the area to be annexed,
18 including a map or plat showing the boundaries of such area.
19 (3) The total number of resident property owners
20 listed on the last property tax rolls of the district in which the
21 area to be annexed is situated, and

- 22 (4) The total number of resident property owners,
23 listed on the last property tax rolls of the district, owning
24 property within the particular area proposed to be annexed.

25 Sec. 2. METHOD OF ASCERTAINING REAL PROPERTY OWNERS WITHIN
26 DISTRICT. Upon a written request by the Council, the governing
27 body of the District shall within 20 days forward to the Council
28 a certified statement containing its determination of:

- 29 (1) The total number of resident property owners and

1 their names, listed on the last real property tax roll of the
2 District, and

3 (2) The total number of resident property owners,
4 and their names, listed on the last property tax roll, owning
5 property within that portion of the area proposed to be annexed
6 within the District.

7 The statements by the governing body determining the number
8 of taxpayers on the last property tax roll within the District
9 and within the area to be annexed shall be made under oath by the
10 person, or persons, who examine such rolls.

11 Costs of the certified statement or certified copy of any
12 petition heretofore filed in any Court shall be borne by the City.

13 Sec. 3. ASCERTAINING VALIDITY OF NECESSARY SIGNATURES. Any
14 petition or petitions or certified copies thereof, bearing the
15 signatures of at least thirty percent (30%) of the resident
16 property owners of the area proposed to be annexed, shall be
17 presented by the Council for review to the governing body of the
18 district, in which the area proposed to be annexed is situated.
19 Within 15 days after the petition is presented, the governing
20 body of the district shall return the petition to the Council
21 with a certification as to those signatures of property owners
22 listed thereon that it recognizes as valid, and specifying those
23 signatures, if any, which it bona fide believes to be invalid.
24 The Council may thereafter secure additional signatures from
25 among any persons qualified to sign.

26 If no return certification is made to the Council by the
27 governing body of the District within the time prescribed, all
28 signatures on such petition shall be deemed to be conclusively
29 valid.

1 Sec. 4. NOTICE OF HEARING BEFORE THE COUNCIL, When the
2 Council deems the petition to be sufficient and proper, it
3 shall cause a notice of a hearing to be posted and shall fix a
4 time and place for such hearing. A map showing the boundaries
5 of the area proposed to be annexed shall be attached to the
6 notice and shall be posted in three public places within the
7 city proposing the annexation and in three public places within
8 the area proposed to be annexed and situated within the District.
9 If a newspaper of general circulation be published in either
10 the annexing city or district, then such notice and map shall be
11 published at least once in such paper. Such notice and map shall
12 be posted, and published if possible, at least 15 days before the
13 date of said hearing.

14 Sec. 5. DETERMINATIONS TO BE MADE BY COUNCIL AT HEARING;
15 REVIEW BY COMMISSIONER: ELECTION IN THE ABSENCE OF AN OBJECTION,
16 At the hearing the Council shall make diligent inquiry and
17 determine: (1) the economic reasonableness and (2) the necessity
18 for and expediency of annexation, considering the best interest
19 of the city, the best interest, services to be rendered and
20 needs of the area proposed to be annexed, and the best interest
21 of the remaining portion of the District.

22 The Council shall make its findings in writing, including a
23 legal description of the boundaries of the area proposed to be
24 annexed, which shall be filed with the City Clerk and made a part
25 of the permanent public record of the annexation proceedings.
26 Such findings shall be conclusive; provided, however, that any
27 findings, or any determination otherwise made, relating to the
28 boundaries of the area proposed to be annexed shall be subject to
29 review by the Commissioner of the recording precinct in which

1 the greater portion of the area proposed to be annexed is situ-
2 ated, if within 10 days after the findings are filed, the govern-
3 ing body or any resident property owner: (1) files an objection
4 or objections, in writing, in the office of the Commissioner and
5 (2) serves a copy of such objection or objections with the City
6 Clerk of the annexing city.

7 In the event no objection to the Council's findings is filed
8 within the time prescribed herein, the Council shall cause an
9 election to be held in accordance with the procedure set forth
10 in Sec. 7 of this Title.

11 In the event an objection is filed within the prescribed
12 time, the City Clerk of the annexing city shall, within five days
13 of receipt of any such objection, forward all the records and
14 documents, or certified copies thereof, of the annexation pro-
15 ceedings on file in his office to the Commissioner.

16 Sec. 6. NOTICE OF HEARING: DETERMINATIONS BY COMMISSIONER.
17 Upon the proper filing of any objection the Commissioner shall
18 immediately set the date for a hearing to be held not less than
19 15 nor more than 30 days, after the filing of the annexation
20 record and documents by the City Clerk. Notice thereof shall be
21 posted within a reasonable time prior to the hearing in three
22 public places in both the annexing city and the area proposed
23 to be annexed, and in a newspaper in both areas where possible.

24 At such hearing, the Commissioner shall give all interested
25 parties an opportunity to be heard and to offer evidence upon the
26 reasonableness of including the total area or any part thereof in
27 the proposed annexation. In making his determination the Commis-
28 sioner shall consider:

29 (1) Whether the area proposed to be annexed reasonably

1 and fairly embraces a compact area of population and a compact
2 body of land having a present physical and common interest with
3 the annexing City, and

4 (2) Whether the proposed annexation will adversely and
5 unreasonably affect the welfare of persons residing within that
6 portion of the District outside the area proposed to be annexed.

7 Based upon the evidence introduced and his written findings
8 the Commissioner may adopt, modify, amend, or reject the proposed
9 boundaries of the area sought to be annexed.

10 In the event the petition is rejected in its entirety, the
11 proceedings shall be dismissed and no annexation proceedings re-
12 lating to the same area or any part thereof, may be reconsidered
13 for a period of one year thereafter.

14 In the event the petition is adopted, modified or amended
15 with respect to the proposed boundaries of the area sought to
16 be annexed, the Commissioner shall order an election:

17 (1) within the area to be annexed;

18 (2) within the remaining portion of the District,
19 provided, however, the number of resident property owners therein
20 exceeds fifty percent; and

21 (3) within the annexing city; provided, however, the
22 Council may dispense with such election by appropriate ordinance
23 or resolution consenting, on behalf of the city, to the proposed
24 annexation.

25 The order shall fix the date of the election and shall
26 delegate to the Council of the annexing city authority to conduct
27 the election.

28 Sec. 7. ELECTION: NOTICE: BALLOTS: ELECTION JUDGES AND
29 CLERKS: CANVASS: CERTIFICATE. The Council may thereupon submit

1 the proposition of annexation to the electors of such city and
2 shall submit the proposition to the electors residing in the area
3 proposed to be annexed to such city. Such proposition may be
4 submitted at a special election to be held for that purpose or
5 at a general election. The Council shall give notice thereof,
6 by publication in a newspaper of general circulation in such
7 city and in such area proposed to be annexed or nearest thereto,
8 for a period of four weeks prior to such election, and shall
9 also post notice thereof in three public places within such city
10 and in three public places within the area for a like period.
11 Such notice shall concisely state the proposition to be submitted
12 and shall designate specifically the boundaries of the area
13 proposed to be annexed. The electors shall be invited thereby
14 to vote upon such proposition by placing upon their ballots the
15 words "for annexation to the city of....." or
16 "against annexation to the city of.....," or words
17 equivalent thereto. The Council shall also designate the hours
18 and place or places at which the polls will be open within such
19 city and in such area proposed to be annexed, which place or
20 places shall, where possible, be those usually used for that
21 purpose within such city or area. The Council shall also appoint
22 and designate in such notice the names of the judges and clerks
23 of election. The judges and clerks before entering upon the
24 discharge of their duties at such election shall each take and
25 subscribe before an officer authorized to administer the same, an
26 oath for the honest and faithful discharge of his or her duties
27 as such judge or clerk. In case of the absence or inability of
28 any judge or clerk appointed to act at such election, the qualified
29 electors present at the polls before proceeding to vote, may

1 choose an elector to act in his or her place from among their
2 number, who shall duly qualify as aforesaid before entering upon
3 the discharge of his or her duties as judge or clerk at such
4 election. The Council shall meet on the Monday next succeeding
5 the day of such election at one o'clock P.M. and canvass the
6 votes cast, and the Council shall issue under their hands, and
7 the seal of the city, a certificate showing the number of votes
8 cast in favor of annexation and the number of votes cast against
9 annexation, separately stating the number of votes for or against
10 in the city if an annexation was held therein, and in the area
11 sought to be annexed. Said certificate together with all the
12 ballots cast and the oaths of the judges and clerks of election
13 shall immediately be filed with the Commissioner.

14 Sec. 8. DECLARATION OF ANNEXATION. If it shall appear
15 to the Commissioner from the certificate of election filed as
16 aforesaid, that a majority of the votes cast at said election
17 in the area sought to be annexed were in favor of annexation
18 and that a majority of the votes cast in the city were also in
19 favor of the annexation, or that an ordinance was duly passed
20 in favor of the annexation and that the provisions of law relat-
21 ing to annexation have been substantially complied with, then
22 the Commissioner shall by an order in writing duly adjudge and
23 declare such annexation and the said area shall be a part of the
24 city at such time, not later than 12 months after the order of
25 the Commissioner, as the Council shall provide by ordinance.
26 Such order shall include a description of the boundaries of the
27 area annexed, give the name of the city to which it is annexed,
28 and any other pertinent matter.

29 Sec. 9. ALTERNATE METHOD OF ANNEXATION BY DISTRICT. IF

1 the governing body of any district contiguous to a city desires
2 to annex such district to such city, it may order an election
3 to be held within such district on such proposition. The ordi-
4 nance shall fix the date of the election and the time and place
5 thereof.

6 Notice of said election shall be posted in three public
7 places within the district and if a newspaper be published or
8 generally circulated in such district, then such notice shall
9 also be published in such newspaper for a period of four consecu-
10 tive weeks prior to such election. Notice shall be posted, at
11 least 30 days before the election. Such notice shall distinctly
12 state the proposition to be submitted, shall designate specific-
13 ly the boundaries of the district proposed to be annexed, and shall
14 contain a map or plat showing such boundaries. The election shall
15 be conducted in substantially the same manner as set forth in Sec.
16 7 of this Title, or in the manner in which general elections are
17 held in such district.

18 After the election, the Board shall publicly canvass the
19 votes and if a majority of the resident property owners voting
20 favor annexation to the city, the Board shall forthwith file a
21 resolution of annexation with the city council. The city council
22 may then order an election within the city, or may dispense with
23 an election and by ordinance proclaim the annexation of such
24 district. Separate certificates of votes cast shall be filed by
25 each governing body, including the Council, conducting such
26 election or elections.

27 TITLE IV

28 MISCELLANEOUS

29 Section 1. ANNEXATION OF CITY-OWNED PROPERTY. The Council

1 may annex by ordinance any property owned by the city and situated
2 adjacent to the boundary or boundaries of the city; provided,
3 however, that the Council may submit the question of annexation
4 of such municipally-owned and adjacent property to the qualified
5 electors of the city at any special or general election held by the
6 city.

7 Sec. 2. REPORT OF CITY BOUNDARY CHANGES MANDATORY, CONTENTS
8 OF REPORT, TIME FOR FILING. Every city, through its clerk, shall
9 report in writing to the Director of Finance of Alaska and to the
10 Clerk of the District Court for the Division within which the
11 city is located, all changes in the boundaries of such city.
12 The report shall contain a detailed description by metes and bounds
13 or legal subdivisions of the boundaries of such city and shall be
14 filed within 90 days from the date of any change of such boundar-
15 ies.

16 Sec. 3. PROCEEDINGS FOR EXCLUSION OF AN AREA. Any area
17 may be excluded from any city in the same manner and following the
18 same procedure as in the case of annexation, except that if the
19 area is to be excluded, the petition to be filed shall be signed
20 by a majority of property owners as herein defined, owning
21 property within the area sought to be excluded, and the electors
22 shall be invited to vote upon such proposition by placing upon
23 their ballots the words "for exclusion from the city of,"
24 or "against exclusion from the city of," and the
25 votes shall be canvassed, the results of the election certified
26 and all other steps taken in like manner as in this Act provided
27 relating to the annexation of any area.

28 Sec. 4. REPEALER. The following Acts or parts of Acts are
29 hereby repealed: Sec. 16-1-21, ACLA 1949, Sec. 16-1-22, ACLA

1 1949, as amended by Ch. 7, SLA 1951, and Ch. 25, SLA 1953; Sec.
2 16-1-23, ACLA 1949; Sec. 16-1-24, ACLA 1949, as amended by Ch. 7
3 SLA 1951, Ch. 25, SLA 1953, And Ch. 149, SLA 1955; Sec. 16-1-25
4 through 16-1-27, ACLA 1949; and Sec. 16-1-28, ACLA 1949, as
5 amended by Ch. 25, SLA 1953.

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