

1 IN THE SENATE

BY SENATOR RIVERS

2

SENATE BILL NO. 128

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 creating the Alaska Annexation Board and
9 defining its powers and duties; establishing
10 procedures for annexation of lands contig-
11 uous to cities; and repealing Sec. 16-1-21,
12 ACLA 1949; Sec. 16-1-22, ACLA 1949, as
13 amended by Ch. 7, SLA 1951, and Ch. 25,
14 SLA 1953; Sec. 16-1-23, ACLA 1949; Sec.
15 16-1-24, ACLA 1949, as amended by Ch. 7,
16 SLA 1951; Ch. 25, SLA 1953 and Ch. 149,
17 SLA 1955; Secs. 16-1-25 through 16-1-27,
18 ACLA 1949; and Sec. 16-1-28, ACLA 1949,
19 as amended by Ch. 25, SLA 1953."

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

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

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

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

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

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

5 (4) "Board" means the Alaska Annexation Board.

6 (5) "Council" means the common council of the annexing
7 city.

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

17 Sec. 3. THE ALASKA ANNEXATION BOARD: ITS COMPOSITION.

18 There is hereby created and established the "Alaska Annexation
19 Board." The Board shall consist of a licensed attorney, a regis-
20 tered engineer, a licensed Certified Public Accountant and two
21 members from the public at large. Each member shall be appointed
22 by the Governor with the consent of the Legislature in joint
23 session assembled or in substantial compliance with Ch. 64,
24 SLA 1955, as amended. Each appointee shall be a resident and
25 legally qualified voter of Alaska at the time of his appointment
26 and while serving as a member of the Board. If possible, one
27 member shall be appointed from each judicial division and one
28 shall be appointed at large. The five Board members shall be
29 appointed for overlapping terms of five years, with the term of

1 office of one member expiring each year. The Governor shall
2 determine the term of each Board member serving on the original
3 Board. Each term of office shall commence April 1st of the
4 year in which it is made. The Governor shall fill a vacancy
5 in the membership of the Board for the balance of any unexpired
6 term subject to confirmation by the Legislature as provided above.

7 The Board shall elect a chairman at its first meeting
8 following the effective date of this Act. The Chairman may call
9 meetings of the Board upon at least seven days notice to each
10 member, and shall do so at the request of any two members pro-
11 vided the first Board meeting shall be called by the Governor
12 within six months of the effective date of this Act. The
13 chairman or any member may call a meeting when a request for a
14 hearing has been properly filed as provided herein by any owner
15 of substantial property in the area affected. The majority
16 of the Board shall constitute a quorum and any action taken by
17 a majority of those present at any meeting or hearing, at which
18 a quorum is present, shall be deemed the action of the Board.
19 Members of the Board shall receive compensation at the rate of
20 fifty dollars (\$50.00) per day while in attendance at any
21 meetings or hearings or while engaged in necessary travel there
22 to and from. In addition, members of the Board shall receive
23 reimbursement for necessary travel and for per diem in the
24 amount authorized by law.

25 Sec. 4. GENERAL DUTIES AND POWERS OF THE BOARD. The
26 Board shall be authorized to hold meetings and conduct hearings
27 at such time and place as it deems necessary, to establish rules
28 of procedure for the conduct of its meetings and hearings, and
29 to do all acts and things necessary to carry out its powers

1 and duties provided for in this Act.

2 Sec. 5. PETITION FOR ANNEXATION. Upon its own initiative
3 or that of interested persons residing within an area contiguous
4 to the municipality, a petition may be circulated within the
5 area proposed to be annexed requesting that such annexation be
6 made. The petition shall include:

7 (1) A concise written statement of its purpose,

8 (2) A legal description of the boundaries of the area
9 proposed to be annexed, and

10 (3) The estimated number of owners of substantial
11 property interest within the area.

12 Whenever the petition has been signed by 30% of the owners of
13 substantial property interests it may be presented to the
14 Council, who shall fix a date for public hearing thereon at which
15 time any voter of the city or any person owning a substantial
16 property interest in the area proposed to be annexed,
17 may appear and be heard. The Council shall cause notice of the
18 hearing to be published once each week for two successive weeks,
19 prior to the date of hearing, in a newspaper of general circu-
20 lation in the city, and shall cause notices of the hearing to be
21 posted in two public places in the city and in two public
22 places in the area proposed to be annexed for a like period.

23 After the hearing the Council may by resolution, passed by
24 an affirmative vote of the majority of the Council members,
25 declare an intention to accept and consent to the proposed
26 annexation or it may dismiss the petition and deny the proposed
27 annexation.

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

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

2 (2) A general statement of the terms and conditions
3 upon which the annexation shall be agreed to, with the intended
4 future improvements, and services to be afforded the annexed
5 area and an estimated tax rate or other assessments to be levied
6 for the five years next preceding in the area sought for the
7 purposes of rendering such improvements and services, and

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

9 Sec. 6. PUBLICATION OF RESOLUTION. A copy of the resolution
10 shall be published at least once a week for four successive
11 weeks in a newspaper of general circulation in the city and such
12 resolution shall be posted in two public places in the city for
13 a like period.

14 Sec. 7. REQUEST FOR A HEARING. Any owner of substantial
15 property interests residing within the city or the area proposed
16 to be annexed may protest the annexation within 60 days of its
17 enactment by filing with the City Clerk a written request for a
18 hearing before the Board, together with a brief summary of the
19 objections to the proposed annexation. Thereafter, the City
20 Clerk within five days of receipt of such objection shall for-
21 ward the petition, minutes and all the records and documents, or
22 certified copies thereof, of the annexation proceedings on
23 file in his office to each member of the Board.

24 Sec. 8. PROCEDURE IF NO OBJECTION. In the event no objec-
25 tion is filed within the time allowed, the Council may, by ordi-
26 nance, and within twelve months after the expiration of the final
27 date allowing a request for hearing, incorporate and adopt all
28 the provisions of the resolution, consenting to the proposed
29 annexation, and declare the area annexed to the city on a date

1 certain, but not later than 90 days after passage of the ordinance.

2 Sec. 9. NOTICE OF HEARING. Upon the proper filing of any
3 objections the Board shall immediately set a hearing, which shall
4 be held not less than 30 days nor more than 60 days after the
5 transmittal of the annexation records and documents to each
6 member of the Board by the City Clerk.

7 Sec. 10. INTERVENTION. In any hearing held by the Board
8 any owner of substantial property interest in the area proposed
9 to be annexed may become parties to such proceedings, and any
10 person affected by the proposed annexation may appear and be
11 made a party to the action and be represented by counsel.

12 Sec. 11. PRECONFERENCE. The Board shall, prior to any
13 hearing under this Act, direct the parties or their attorneys
14 to appear before it, or in its discretion before any single
15 member thereof, for a conference to consider:

16 (1) The simplification of the issues;

17 (2) Stipulations as to facts, documents, records,
18 photographs, plans and like matter which will dispense with
19 formal proof thereof;

20 (3) Limitation on the number, if any of expert wit-
21 nesses;

22 (4) Such other matters as may aid in the disposition
23 of the action.

24 The Board, or any member thereof, before whom the conference is
25 held may make an appropriate order which shall control the sub-
26 sequent conduct of the hearing unless modified at the hearing to
27 prevent manifest injustice.

28 Sec. 12. INFORMAL HEARING. The Board shall conduct a
29 hearing in an informal manner and the formal rules of pleading

1 or evidence need not be followed.

2 Sec. 13. MATTERS TO BE CONSIDERED BY THE BOARD. In deter-
3 mining the necessity for or expedience of annexation the Board
4 shall consider:

5 (1) Whether the best interest of the city and the
6 area sought to be annexed are being served;

7 (2) Whether the area sought to be annexed is a rea-
8 sonably compact body of land;

9 (3) Whether city improvements are adaptable to the
10 area to be annexed;

11 (4) Whether the costs of the proposed services to be
12 derived by annexation are economically feasible to the area
13 to be annexed;

14 (5) Whether the health, welfare and safety of those
15 persons affected by the annexation will be preserved and protected;

16 (6) Whether those provisions made in the resolution
17 for the future management and improvement of such area proposed
18 to be annexed and the services to be rendered are fair and just;

19 (7) Whether any other terms and conditions set forth
20 in the ordinance are fair and just.

21 Sec. 14. POWERS OF THE BOARD. The Board shall have power:

22 (1) To determine the metes and bounds of the area to
23 be annexed, and may include a greater or smaller area than that
24 described in the ordinance; the Board shall so draw the lines
25 of annexation as to have a reasonably compact body of land, so
26 that no land shall be taken into the city which is not adaptable
27 to city improvements, or which the city will not need in the
28 reasonably near future for development, unless necessarily
29 embraced in such compact body of land;

1 (2) To require the assumption by the city of a just
2 proposition of an existing debt owed by any district, if any,
3 within the area proposed to be annexed;

4 (3) To prescribe what capital outlay shall be made
5 by the city in the area after annexation; provided, that the
6 Board shall not require of the city the providing of any capital
7 improvements which in its judgement are not essential to meet
8 the needs of the annexed area or to bring the same up to a
9 standard equal to that of the remainder of the city.

10 Sec. 15. ORDER BY THE BOARD. The Board in making its
11 decision shall balance the equities presented at the hearing
12 and shall enter an order setting forth what it deems fair and
13 reasonable terms and conditions.

14 Sec. 16. TRANSMITTAL OF ORDER: ACTION BY COUNCIL. Upon
15 the order being signed by a majority of the Board, copies thereof
16 shall be transmitted to all interested parties. The Council
17 thereafter may decline or accept annexation on the terms and
18 conditions imposed.

19 Sec. 17. ACCEPTANCE BY THE COUNCIL. In the event the
20 Council accepts annexation according to the terms and conditions
21 of the Board's order, it shall pass an ordinance, incorporating
22 a legal description of the area in question and the terms and
23 conditions imposed by the Board. Upon the passage of the ordi-
24 nance, an election shall be held in the area to be annexed.

25 Sec. 18. QUALIFICATIONS OF ELECTORS. The qualifications
26 of an elector shall be as follows:

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

29 (2) An elector shall have been a resident of Alaska

1 for not less than one year;

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

5 (4) An elector shall be the owner of substantial
6 property interests within the area proposed to be annexed.

7 Sec. 19. ELECTION; NOTICE; BALLOTS; ELECTION JUDGES AND
8 CLERKS; CANVASS CERTIFICATE:

9 (1) The Council of such city shall thereupon submit
10 the question to the electors in the area proposed to be annexed
11 to such city. Such question shall be submitted at a special
12 election to be held for that purpose;

13 (2) Such Council shall give notice thereof, by pub-
14 lication in a newspaper of general circulation in such area
15 as proposed to be annexed or nearest thereto, for a period of
16 four weeks prior to such election; also by posting notice
17 thereof in three public places within the area for a like period.
18 Such notices shall be posted and the first publication of such
19 notice in the newspaper shall be at least four weeks before the
20 election. Such notice shall distinctly state the proposition to
21 be so submitted and shall designate specifically the boundaries
22 of the territory so proposed to be annexed;

23 (3) The electors shall be invited thereby to vote upon
24 such proposition by placing upon their ballots the words "for
25 annexation to the city of _____" or "against annexa-
26 tion to the city of _____", or words equivalent
27 thereto;

28 (4) Such Council shall also designate the time and
29 place or places at which the polls will be open within the area

1 prepared to be annexed, which place or places shall be those
2 usually used for that purpose within such area, if any such
3 there be;

4 (5) Such Council shall also appoint the judges and
5 clerks of election. The judges and clerks before entering
6 upon the discharge of their duties at such election shall
7 each take and subscribe before an officer authorized to admini-
8 ster the same, an oath for the honest and faithful discharge of
9 his or her duties as such judge or clerk. In case of the absence
10 or inability of any judge or clerk appointed to act at such elec-
11 tion, the qualified electors present at the polls before pro-
12 ceeding to vote, may choose an elector to act in his or her
13 place from among their number, who shall duly qualify as afore-
14 said before entering upon the discharge of his or her duties
15 as judge or clerk at such election;

16 (6) Such Council shall meet on the Monday next suc-
17 ceeding the day of such election at one o'clock p. m. and canvass
18 the votes cast thereat, and the Council shall issue under their
19 hands, and the seal of the city, a certificate showing the
20 number of votes cast in favor of annexation and the number of
21 votes cast against the annexation;

22 (7) Said certificate together with all the ballots
23 cast and the oaths of the judges and clerks of election shall
24 immediately be filed with the city.

25 Sec. 20. DECLARATION OF ANNEXATION. If it shall appear
26 to the Council from the certificate of election filed as afore-
27 said that a majority of the votes cast at said election were in
28 favor of annexation, then the Council shall by an ordinance
29 duly passed declare such annexation of the area, and the area

1 shall thereafter be a part of the city.

2 Sec. 21. COST OF ANNEXATION. The costs of annexation
3 proceedings whenever the petition is instituted by the city shall
4 be borne equally by the city and Alaska.

5 Sec. 22. ENFORCEMENT OF ANNEXATION TERMS AND CONDITIONS.
6 The Board shall have the power and it shall be its duty at any
7 time to enforce the performance of the terms and conditions upon
8 which annexation is granted by requesting the Attorney General
9 to petition the appropriate court to issue such legal process
10 as may be necessary to compel such performance; provided, the
11 Board may, in its discretion, for good cause rescind, amend or
12 modify its order, in whole or in part, as the interests of the
13 city or the residents of the annexed area may require.

14 Sec. 23. REVIEW BY COURT. Any action of the Board shall
15 be subject to review in the appropriate court on such matters
16 coming within its jurisdiction in the same manner as provided
17 with respect to other actions of law.

18 Sec. 24. ANNEXATION OF CITY-OWNED PROPERTY. The Council
19 may annex by ordinance any property owned by the city and situ-
20 ated adjacent to the city boundaries.

21 Sec. 25. REPEALER. The following Acts or parts thereof,
22 or any other Acts or parts thereof inconsistent with this Act,
23 are hereby repealed: Sec. 16-1-21, ACLA 1949; Sec. 16-1-22,
24 ACLA 1949, as amended by Ch. 7, SLA 1951, and Ch. 25, SLA 1953;
25 Sec. 16-1-23, ACLA 1949; Sec. 16-1-24, ACLA 1949, as amended by
26 Ch. 7, SLA 1951; Ch. 25, SLA 1953, and Ch. 149, SLA 1955; Secs.
27 16-1-26 through 16-1-27, ACLA 1949; and Sec. 16-1-28, ACLA 1949,
28 as amended by Ch. 25, SLA 1953.

29