

1 IN THE SENATE

BY THE COMMITTEE ON LOCAL GOVERNMENT

2 SENATE BILL NO.235

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the annexation of areas  
7 to existing cities; providing procedures  
8 therefor; repealing Ch. 183, SLA 1957 as  
9 amended by Ch. 103, SLA 1959; and providing  
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 Section 1. DEFINITIONS. As used in this Act the terms de-  
13 fined herein shall have the meanings provided unless the context  
14 clearly requires otherwise:

15 (1) "Alaska" means the State of Alaska;

16 (2) "annexing city" means the city seeking to annex or  
17 annexing an area of lands contiguous to the city;

18 (3) "area" means any lands, not incorporated as a city,  
19 lying contiguous to any annexing city, including such lands  
20 separated from any annexing city by water or by tide or shore  
21 lands;

22 (4) "council" means the common council of the annexing  
23 city;

24 (5) "property owner" means the owner of any interest in  
25 real property or tidelands, or possessory rights therein, or im-  
26 provements thereon, and including leaseholds of one year or more,  
27 equities created by contracts of purchase and sale, mining loca-  
28 tions, and rights arising through adverse possession, and whose  
29 name appears as an owner thereof on the real property tax rolls of

1 any taxing district of which the area sought to be annexed shall  
2 be a part.

3 Sec. 2. SCOPE OF ACT. The various methods of annexation pro-  
4 vided in this Act shall not be mutually exclusive but shall be,  
5 insofar as appropriate, alternative methods of annexation and any  
6 and all procedures set forth in this Act shall be in addition to  
7 the powers of the Local Boundary Commission to change boundaries  
8 as provided by law.

9 Sec. 3. AREAS OWNED BY THE CITY. Any area which is owned by  
10 a city which is outside the city but contiguous to any boundary  
11 thereof may be annexed to the city upon approval by the city coun-  
12 cil of an ordinance providing for such annexation. The ordinance  
13 shall include a legal description of the area to be annexed and  
14 provide a date at which the annexation shall be effective. No  
15 public hearing or notice shall be required other than those appli-  
16 cable to ordinances generally and the approval of the annexation  
17 by the Local Boundary Commission is not required.

18 Sec. 4. ANNEXATION OF AREAS COMPLETELY SURROUNDED BY CITY.  
19 Any area which is completely surrounded by the existing boundaries  
20 of a city or is bordered by the ocean, a lake, natural water  
21 course or other body of water on one or more sides and bordered on  
22 all other sides by existing city boundaries may be annexed by the  
23 city through the following method:

24 (1) A petition requesting annexation to the city shall  
25 be submitted to the Local Boundary Commission. The petition shall  
26 include a concise written statement of its purpose, a legal des-  
27 cription of the area proposed to be annexed and shall be signed by  
28 either (a) more than 50% of the property owners of each identi-  
29 fiable parcel of property or (b) the property owners of more than

1 50% in value of the total area sought to be annexed.

2 (2) The Local Boundary Commission upon receipt of the  
3 petition, shall determine whether or not the petition fulfills the  
4 requirements of this section and whether sufficient valid signa-  
5 tures are included thereon. If it shall determine that the peti-  
6 tion is not in proper order or that the requisite signatures have  
7 not been obtained, it shall return the petition together with a  
8 statement explaining why the petition is insufficient and shall  
9 take no further action on the petition unless and until any and  
10 all deficiencies have been supplied and defects remedied.

11 (3) If the Local Boundary Commission determines that a  
12 proper petition has been submitted, it shall set a date for a  
13 public hearing on the petition within either the area sought to be  
14 annexed or the city to which annexation is sought. The Local  
15 Boundary Commission shall cause the notice of the hearing to be  
16 published once a week for three consecutive weeks, prior to the  
17 date of the hearing, in a newspaper of general circulation in the  
18 area and shall cause notice of the hearing to be posted in two  
19 public places in the city and two public places in the area sought  
20 to be annexed for a like period. The first publication and the  
21 posting of the notices shall be made not more than 30 nor less  
22 than 15 days prior to said hearing.

23 (4) At the public hearing, the Local Boundary Commis-  
24 sion shall accept and weigh the testimony and opinions of all per-  
25 sons present wishing to be heard and within 30 days after the  
26 termination of the hearing shall issue an opinion approving or  
27 disapproving the proposed annexation, copies of which opinion  
28 shall be transmitted to the person or persons circulating the  
29 petition and to the city council of the city to which annexation

1 is sought. If the Local Boundary Commission finds that annexation  
2 should not take place, no further action on the petition shall be  
3 taken. If the Local Boundary Commission approves the annexation,  
4 it shall transmit the petition together with the opinion approving  
5 it to the city council of the city to which annexation is sought.

6 (5) The city council shall, upon receipt of the peti-  
7 tion and the favorable opinion of the Local Boundary Commission,  
8 consider the same as if it determines that annexation should be  
9 accomplished, shall adopt an ordinance annexing the area and pro-  
10 viding an effective date therefor. The annexing ordinance shall  
11 also contain:

12 (a) a legal description of the area annexed;

13 (b) each obligation or part thereof, of any public  
14 utility district or other unit of government of which the  
15 area annexed may have been a part, which the city will assume

16 (c) any other obligation or liability which the  
17 city will assume.

18 (6) Upon passage and approval of the ordinance, annexa-  
19 tion shall take place on the date provided in the ordinance and no  
20 further action on the part of the city, the Local Boundary Commis-  
21 sion or the other area annexed is required.

22 Sec. 5. ADDITIONAL METHOD FOR ANNEXATION OF AREA COMPLETELY  
23 SURROUNDED BY CITY. Those areas specified in Sec. 4 of this Act  
24 may also be annexed by the following procedures:

25 (1) The city council of the city shall adopt a resolu-  
26 tion declaring an intention to annex the area in question. The  
27 resolution shall contain:

28 (a) a legal description of the area in question;

29 (b) a detailed statement of the terms and condi-

1 tions upon which annexation shall be agreed to, the intended  
2 future improvements, if any, and services, if any, to be  
3 afforded the annexed area and an estimated tax rate or other  
4 assessments, if any, to be levied for a fixed period of time  
5 to be determined by the council in the area sought for the  
6 purposes of rendering improvements and services; and

7 (c) the proposed effective date of the annexation.

8 (2) In the event the area, or any part thereof, to be  
9 annexed is situated within a public utility district or other unit  
10 of government and is subject to any existing or contingent obliga-  
11 tion of which the city shall have written notice from the public  
12 utility district or other unit of government, the city shall also  
13 include in its resolution a statement setting forth:

14 (a) each obligation of such district or other unit  
15 of government, by name and amount;

16 (b) each such obligation or part thereof, if any,  
17 by name and amount, to be assumed by the city; and

18 (c) any liability, contingent or otherwise, which  
19 shall subject the property, included in the area to be an-  
20 nexed, to assessment or other legal action, to assure payment  
21 of such liability.

22 (3) At least five copies of the resolution shall be  
23 transmitted to the Local Boundary Commission and the commission  
24 shall hold a public hearing in the manner provided in Subsecs. (3)  
25 and (4) of Sec. 4 of this Act. The Local Boundary Commission  
26 shall issue an opinion based upon the facts adduced at such public  
27 hearing approving or disapproving the proposed annexation, pro-  
28 vided however, that approval may not be granted if the Local Boun-  
29 dary Commission finds, from evidence presented at said hearing,

1 that more than 50% of the property owners of parcels of property  
2 in the area proposed to be annexed oppose the annexation.

3 (4) The Local Boundary Commission shall transmit a copy  
4 of its finding to the city council. If its finding is that annexa-  
5 tion should not take place, no further action shall be taken there-  
6 on. If the finding approves such annexation, the city council may  
7 pass an ordinance containing the following:

8 (a) the terms and conditions of annexation con-  
9 tained in the resolution declaring the intention to annex;

10 (b) each obligation of the district or other unit  
11 of government, by name and amount; each such obligation or  
12 part thereof, if any, by name and amount, to be assumed by the  
13 city; and any liability, contingent or otherwise, which shall  
14 subject the property, included in the area to be annexed, to  
15 assessment or other legal action, to assure payment of that  
16 liability;

17 (c) specifically restate the boundaries of the area  
18 annexed; and

19 (d) formally declare the annexation of the area,  
20 and the area then becomes a part of the city. Provided, how-  
21 ever, that nothing herein shall be construed to interfere with  
22 the normal operation and maintenance of any public or private  
23 utility company or association to continue in business, in  
24 its usual manner, unless prohibited from such activities  
25 through due process of law.

26 Sec. 6. ANNEXATION INITIATED BY PETITION OF 20% OF PROPERTY  
27 OWNERS. a. Annexation proceedings may be initiated by a petition  
28 signed by 20% of the property owners in any area, whether or not  
29 surrounded by the existing boundaries of a city, for which annexa-

1 tion is sought. The petition shall include:

2 (1) a concise written statement of its purpose;

3 (2) a legal description of the boundaries of the area  
4 sought to be annexed; and

5 (3) the estimated number of property owners within the  
6 area.

7 b. The petition shall be presented to the Local Boundary Com-  
8 mission which shall determine its sufficiency as to form and as to  
9 number and validity of signatures and either return the petition  
10 to the circulators as set forth in Sec. 4 (2) of this Act or hold  
11 a public hearing thereon.

12 c. Should the petition be found sufficient, the Local Boun-  
13 dary Commission shall hold a public hearing thereon upon notice  
14 and publication as set forth in Sec. 4 (3) of this Act. At the  
15 public hearing the Local Boundary Commission shall receive testi-  
16 mony and evidence from the petitioners and other interested parties  
17 bearing on the proposed annexation. Within 30 days after the hear-  
18 ing is closed, the Local Boundary Commission shall issue a finding  
19 in regard to the proposed annexation. The finding shall be either:  
20 that annexation be disapproved, that annexation be approved, or  
21 that annexation be placed on the ballot for determination.

22 (1) If the finding is that annexation be disapproved,  
23 the petition shall be returned to the petitioners with a copy of  
24 the finding and no further action shall be taken.

25 (2) If the finding is that annexation be approved, the  
26 Local Boundary Commission shall present the proposed annexation to  
27 the legislature as provided in Section 12, Article X of the Consti-  
28 tution of the State of Alaska for proposed changes, and the annexa-  
29 tion shall become effective or be disapproved as provided therein.

1 (3) If the finding is that annexation be decided by a  
2 vote, the Local Boundary Commission shall transmit the petition  
3 together with its finding to the city council and the city council  
4 shall, by ordinance, order an election to be held as provided in  
5 Sec. 6 d. of this Act.

6 d. The council shall submit the question of annexation to  
7 the electors in the proposed annexation area and to the electors of  
8 the existing city in accordance with the terms of the election  
9 ordinance. The question shall be submitted at a general election,  
10 or at a special election held for that purpose, and the qualifica-  
11 tion of electors shall be those, and only those, prescribed in this  
12 paragraph and Article V of the Constitution of Alaska.

13 (1) The council shall give notice of the election by  
14 publication in a newspaper of general circulation in the area and  
15 city once a week for a period of four successive weeks prior to  
16 the election and by posting notice of the election in three public  
17 places in the city and in three public places in the annexation  
18 area for a like period. The notice shall be posted and the first  
19 weekly publication of the notice in the newspaper shall be at  
20 least four weeks before the election. The notice shall specific-  
21 ally state (a) the proposition to be submitted and (b) the boun-  
22 daries of the area proposed to be annexed.

23 (2) The electors shall be invited to vote upon the  
24 proposition by marking an "X" within a square space to the right of  
25 the words, "For annexation," or by marking an "X" within a square  
26 space to the right of the words, "Against annexation."

27 (3) The council shall designate the time and places at  
28 which the polls will be open within the area proposed to be an-  
29 nexed and within the city, which time and places shall be those

1 usually reserved for elections insofar as is practicable.

2 (4) Judges and clerks for the election shall be ap-  
3 pointed by the council both for the area proposed to be annexed  
4 and for the city in the manner provided by law for the appointment  
5 of election officials within the city to which annexation is  
6 sought and the duties of the election officials shall be as pro-  
7 vided in that law.

8 (5) The city council shall meet on the first Monday  
9 following the election day at one o'clock p.m. or as soon there-  
10 after on the same day as possible and canvass the votes cast at  
11 the election, and the council shall issue under their hands, and  
12 the seal of the city, a certificate showing the number of votes  
13 cast in favor of annexation and the number of votes cast against  
14 the annexation. At such canvass the total number of votes cast in  
15 the city and the total number of votes cast in the area for which  
16 annexation is sought shall be combined for the purpose of deter-  
17 mining whether a majority have voted for or against annexation.

18 (6) The certificate together with all the ballots cast  
19 and the oaths of the judges and clerks of election shall immedia-  
20 tely be filed with the city.

21 e. If it should appear to the council from the certificate  
22 of election that a majority of all the votes cast at the election  
23 are in favor of annexation, the council shall by ordinance:

24 (1) specifically restate the boundaries of the area  
25 annexed;

26 (2) formally declare the annexation of the area, and the  
27 area shall become a part of the city: Provided, however, that  
28 nothing herein shall be construed to interfere with the normal  
29 operation and maintenance of any public or private utility company

1 or association to continue in business, in its usual manner, un-  
2 less prohibited from such activities through due process of law;  
3 (3) determine the effective date for annexation which  
4 date may not be more than six months after the election.

5 Sec. 7. ADJUSTMENT OF OBLIGATIONS. Upon annexation of any  
6 area which is all or part of any public utility district or other  
7 unit of government, the city shall negotiate with such district  
8 or other unit of government for the assumption of an equitable  
9 proportion of the obligations of such district or other unit of  
10 government as determined by the size and economic importance of  
11 the area annexed as compared to the total size and economic impor-  
12 tance of the district or other unit of government of which it was  
13 formerly a part. The negotiations may include provisions for the  
14 purchase or maintenance or both of any or all properties in the  
15 area owned by the district or other unit of government of which it  
16 was formerly a part. If agreement cannot be reached, the disputed  
17 matters shall be arbitrated under such rules and procedures as  
18 may be agreed upon by the city and district or other unit of  
19 government.

20 Sec. 8. STANDARDS TO BE USED BY BOUNDARY COMMISSION. a. In  
21 determining whether annexation should be approved or disapproved,  
22 the Local Boundary Commission shall give consideration to the fol-  
23 lowing factors:

24 (1) the need for municipal type service within the area  
25 proposed to be annexed;

26 (2) the ability of the city to provide such service  
27 within a year after annexation is made final;

28 (3) the benefits to be obtained both by the city and  
29 the annexed area in the event of annexation;

1 (4) the probable injury to both, or either the city and  
2 the annexed area, should annexation take place;

3 (5) the probable injury to both, or either the city and  
4 annexed area, should annexation not take place;

5 (6) such other factors as the Commission may determine  
6 relevant and material to the proposed annexation.

7 b. In weighing these factors the Local Boundary Commission  
8 shall consider planning, police protection, fire protection,  
9 street control and maintenance, health protection, utility ser-  
10 vices, and other recognized governmental service functions as they  
11 will affect the city and the proposed annexation area.

12 Sec. 9. REPEALER. Ch. 183, SLA 1957 as amended by Ch. 103,  
13 SLA 1959, is repealed.

14 Sec. 10. EFFECTIVE DATE. This Act takes effect on the day  
15 after its passage and approval or on the day it becomes law with-  
16 out such approval.

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