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IN THE SENATE BY SENATOR B. PHILLIPS

SENATE BILL NO. 7.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of organized and unorganized boroughs in the State of Alaska."

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

Section 1. INTENT. It is the intent of this Act to establish an unorganized borough and to establish procedures for creating organized boroughs within the State of Alaska as an intermediate level of government. All of the powers herein granted to the organized boroughs shall be effective throughout their boundaries, within cities, as well as outside cities.

Sec. 2. FORMATION OF UNORGANIZED BOROUGH. All areas in the State of Alaska which are not within any organized borough shall constitute and are hereby made a single unorganized borough. Organized boroughs may be formed as hereinafter provided, and when any organized borough is formed, the area within the boundaries of said organized borough shall cease to be a part of the unorganized borough.

Sec. 3. TAXATION WITHIN UNORGANIZED BOROUGH. The state may levy, assess, and collect annually a tax on the real and personal property of residents of the unorganized borough in order to defray in part the cost of services of a local nature provided by the state; provided, however, that the rate of taxation shall not exceed five mills for each dollar of assessed valuation and, provided further, that no tax shall be levied in

1 any area of the unorganized borough in which the residents thereof
2 are already subjected to a property tax levied by any local sub-
3 division or subdivisions of government in the combined amount of
4 at least five mills, the proceeds of which tax are devoted to
5 furnishing local services, including, but not limited to, schools.
6 The residents of any area within the unorganized borough whose
7 property is taxed at a combined rate of less than five mills by
8 any local subdivision or subdivisions of government shall have
9 their property taxed at a rate equal to the difference between
10 the tax levied by the local subdivision or subdivisions and the
11 rate annually levied by the state for areas not subject to any
12 local taxation, but if the combined local tax levies equal or
13 exceed the then current state property tax levy, no state property
14 tax shall be levied in any such area.

15 Sec. 4. PROCEDURE FOR LEVY AND COLLECTION OF TAX. The
16 Local Affairs Agency is hereby designated as the agency for the
17 assessment and collection of any state property tax enacted in
18 implementation of the provisions of this Act. It shall use such
19 procedures and remedies for assessment and collection as are
20 granted to general law cities insofar as those procedures shall
21 be applicable and where there is no applicable procedure, shall
22 promulgate suitable regulations in conformity with the Adminis-
23 trative Procedure Act.

24 Sec. 5. TIME OF LEVY: RATE. Unless the legislature other-
25 wise directs in the Property Tax Act passed to implement this
26 Act, the tax levy each year beginning with the year 1962 shall
27 be fixed by the legislature. If the legislature should neglect
28 or fail to fix the levy in any year, then the rate shall be the
29 same as for the previous year. The assessment date shall be

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1 January 1 of each year.

2 Sec. 6. FORMATION OF ORGANIZED BOROUGHES. a. Petition may
3 be made to the Local Affairs Agency for the formation of an or-
4 ganized borough by a number of electors equal to 20 per cent of
5 the electors who cast ballots at the next preceding state general
6 election within any area described and designated in the petition
7 as a suitable area for an organized borough. The proposed area
8 shall not contain any part of an organized borough, all parts
9 thereof shall be contiguous and adjacent to other parts and while
10 said area may embrace one or more municipal corporations, it
11 must include the whole of any municipal corporation with said
12 area.

13 b. The petition shall be submitted to the Director of the
14 Local Affairs Agency who shall refer the matter to the Local
15 Boundary Commission for hearing and recommendation.

16 Sec. 7. NOTICE, HEARING, RECOMMENDATION. The Local Boun-
17 dary Commission shall hold at least one public hearing within the
18 area of the proposed borough, notice of which shall be published
19 according to law. The commission shall hear all interested per-
20 sons and groups and after all persons have been given a reason-
21 able opportunity to be heard, shall recommend to the legislature
22 whether or not the proposed borough should be formed. Said
23 recommendation shall be submitted within 90 days from the date
24 of the first hearing on the proposed borough and shall include
25 the description of the proposed area, which description shall be
26 the same as that contained in the petition unless the commission
27 specifically finds that the area as proposed is not suitable and
28 that a greater, lesser, or modified area of which the original
29 proposal is a major part, would constitute a suitable borough,

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1 and if the commission so finds, the recommendation shall be for
2 the area as so modified.

3 Sec. 8. BOUNDARIES. In the determination of recommended
4 boundaries, the commission shall be guided by Sections 1 and 3
5 of Article X of the Constitution of Alaska and in addition shall
6 so recommend boundaries that small areas and tracts of land, not
7 in themselves suitable as boroughs, be integrated into that
8 borough of which they are logically a part, even though not in-
9 cluded in the original petition.

10 Sec. 9. LEGISLATIVE CONSIDERATION OF RECOMMENDATION. The
11 legislature shall consider the recommendation of the Local Boun-
12 dary Commission in accordance with the provisions of Sec. 2, Ch.
13 185, SLA 1959, or may, in the alternative, direct that an elec-
14 tion be held in the proposed borough in which election the
15 electors shall decide whether or not the borough should be
16 formed.

17 Sec. 10. ELECTION PROCEDURE FOR BOROUGH FORMATION. If an
18 election be directed, it shall be held at state expense and under
19 the supervision of the secretary of state and, insofar as prac-
20 ticable, the provisions and procedures governing annexation
21 elections shall prevail; provided, however, that the notice of
22 election need contain only the proposition and a legal descrip-
23 tion of the proposed borough.

24 Sec. 11. FORMATION OF BOROUGH. If the legislature does not
25 disapprove the proposed borough and does not direct an election,
26 the borough shall be constituted on the date specified in the
27 recommendation, or if no date is recommended, on the day following
28 the last day of the legislative session or on the date when the
29 resolution disapproving the formation is defeated, whichever event

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1 first occurs. If an election be held, the borough shall exist
2 from the date of certification of the result of the election if
3 the proposition shall have received a majority of the valid
4 ballots cast thereon.

5 Sec. 12. POWERS OF ORGANIZED BOROUGHES. An organized bor-
6 ough shall have all legislative power not prohibited by law or
7 by charter, including the power to contract with other subdivisions
8 of government for performance of governmental services. Where
9 the ordinances or charter are silent on a question of procedure,
10 any provision of law applicable to cities of the first class shall
11 govern, but on questions of substance, such statutes shall not be
12 construed to limit the powers of organized boroughs. The organ-
13 ized borough is specifically recognized to possess the powers
14 exercised by boards of platting, the powers exercised by inde-
15 pendent school districts, the powers exercised by health dis-
16 tricts, the power with respect to conduct of elections, the power
17 to exercise jurisdiction over ports and port districts; but none
18 of these powers shall be exercised in such a way as to conflict
19 with the like powers possessed by municipal corporations within
20 the borough.

21 Sec. 13. CHARTER COMMISSION. a. Upon formation of a
22 borough, a special election shall be held to elect a charter com-
23 mission; provided, however, that if the legislature had directed
24 an election on the formation of the borough, then the election
25 of persons to a charter commission shall be held in conjunction
26 therewith and the results shall be effective only if the electors
27 approve the formation of a borough.

28 b. Candidates for the charter commission shall possess the
29 qualifications of state senators and shall be nominated by

1 petition signed by 25 qualified electors of the borough or of
2 the area proposed as a borough, as the case may be.

3 c. The election shall be supervised by the secretary of
4 state and the cost thereof shall be borne by the state. The nine
5 candidates having the highest plurality shall be declared elected
6 and shall constitute the charter commission.

7 Sec. 14. PREPARATION OF CHARTER. a. The charter commission
8 shall, within six months after the result of the election is
9 declared, prepare and propose a charter for the government of the
10 borough.

11 b. The charter commission shall hold one or more public
12 hearings on the proposed charter, notice of which shall be pub-
13 lished according to law. At any such hearing, all interested
14 parties shall be given a reasonable opportunity to be heard and
15 to recommend changes in said charter. After all hearings have
16 been concluded, the charter commission shall make such changes
17 as it determines to be in the public interest. The charter so
18 prepared shall be signed by a majority of the charter commission
19 and filed in the office of the secretary of state, and a true copy
20 thereof shall also be filed in the clerk's office of every municipi-
21 pal corporation within the borough.

22 c. The secretary of state shall, within 15 days after such
23 filing, cause such charter to be published once in a newspaper of
24 general circulation within the borough in all the editions thereof
25 issued during the day of publication. In the event there is no
26 newspaper published in the borough, the secretary of state shall
27 cause copies of the proposed charter to be posted in at least
28 three conspicuous places within the borough. Copies of the pro-
29 posed charter shall also be made available to the electors.

1 Sec. 15. CONTENTS OF CHARTER. The charter commission, in
2 drafting the charter for the borough, may include therein all
3 matters necessary and proper for the basic legislative document
4 of a borough, including, but not limited to, type and form of
5 government, method of enacting legislation, procedures for budget,
6 finance and taxation, relationship with other governmental bodies,
7 elections, and conduct and regulation of public utilities. Such
8 charter shall specifically set forth the number of members on the
9 assembly, which number shall be not less than nine and which
10 number shall include not less than one member designated by the
11 city council to serve thereon from each city of any class included
12 within the area of the borough, which person shall be a member of
13 the council of the city he represents.

14 Sec. 16. CHARTER ELECTION. Such charter shall be submitted
15 to the qualified voters of the borough at either a special or
16 general election, according to a date fixed by the secretary of
17 state not less than 30 nor more than 60 days from the completion
18 of the publication of such charter as above provided.

19 Sec. 17. CHARTER ADOPTION. If a majority of the qualified
20 voters voting thereon at such general or special election shall
21 vote in favor of such proposed charter, it shall be deemed to be
22 ratified and shall become the organic law of the borough. Two
23 copies of the charter so ratified and approved shall be filed with
24 the secretary of state and one copy filed with the recorder in
25 the district in which such borough is located, and at least one
26 copy shall be filed in the official records of the borough.
27 Thereafter, the court shall take judicial notice of the provisions
28 of such charter.

29 Sec. 18. ASSUMPTION OF ASSETS AND LIABILITIES. a. Organized

1 boroughs established pursuant to this Act shall, upon assumption
2 of the powers, and duties of any school district, public utility
3 district, or any other form of governmental activity, also assume
4 liability for all obligations and indebtedness of the former
5 agency, including liability for bonded indebtedness. The borough,
6 upon assumption of the powers and duties of any such agency,
7 shall succeed to all the right, title and interest in and to all
8 of the real and personal property of the former agency.

9 b. No borough shall assume the powers, duties, property and
10 liabilities of any subdivisions of government within its borders
11 except after written notice of at least six months to the govern-
12 ing body thereof. During this period the borough assembly and
13 the governing body shall discuss and arrange for an orderly trans-
14 fer of powers and assets to the borough. After notice by the
15 borough assembly of its intention to assume the powers of any
16 subdivision of government, such subdivision shall assume new in-
17 debtedness, contract or transfer assets only with the consent of
18 the assembly. Upon assumption of the functions of any subdivi-
19 sion, the borough shall have power to collect all monies due said
20 subdivision including unpaid taxes and special assessments to
21 the same extent as said power was possessed by said subdivision.
22 This section shall not be construed to confer to the borough any
23 power over cities.

24 Sec. 19. SERVICE AREAS. Pursuant to Section 5 of Article X
25 of the Constitution of Alaska, the borough assembly may establish
26 service areas to provide special services within part of an
27 organized borough and may alter and abolish such areas as it sees
28 fit. The assembly may levy taxes, charges and assessments within
29 any such service area so established to finance the cost of the

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1 special service available to that area by reason of the service
2 district.

3 Sec. 20. REVOLVING FUND. The legislature shall appropriate
4 sufficient monies and establish a revolving fund to provide funds
5 to newly formed boroughs until such time as tax revenues are
6 received. The Director of the Local Affairs Agency is hereby
7 authorized to direct payments out of the fund in such amounts
8 as he deems warranted to the assembly of any newly organized
9 borough upon execution of an agreement for repayment to the fund
10 installments over a period not in excess of ten years, with in-
11 terest at five per cent.

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