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Referred: Local
Government

BY THE LABOR AND MANAGEMENT
COMMITTEE BY REQUEST

1 IN THE HOUSE

2

HOUSE BILL NO. 220

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRD LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act to provide for the formation of

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special service areas in the unorganized

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borough to take over the functions of exist-

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ing special service districts; and providing

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for an effective date."

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

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* Section 1. PURPOSE. The purpose of this Act is to provide

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for an orderly transition to borough government by establishing

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service areas within the unorganized borough to take over the

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powers and functions of existing special service districts on July

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1, 1963. These service areas within the unorganized borough will

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be integrated with borough governments as they are formed. The

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vital functions now being performed by school districts and public

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utility districts will thus continue to be performed without

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interruption.

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* Sec. 2. AS 07.05.030 is repealed and re-enacted to read:

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Sec. 07.05.030. TRANSITION OF SPECIAL SERVICE DISTRICTS

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Each special service district in existence on June 30, 1963,

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becomes a service area of the unorganized boroughs on July 1,

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1963. All rights, powers, except the power to levy taxes,

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duties, assets, liabilities, and real and personal property

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of each special service district which becomes a service area

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under this chapter are transferred on July 1, 1963, to the

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service area. The governing body of the special service

1 district becomes the supervisory board of the service area,
2 and immediately assumes its powers and duties. It shall
3 serve until the election of supervisory board members as pro-
4 vided in this chapter, but in no event longer than one year.

5 * Sec. 3. AS 07.05 is amended by adding new sections to read:

6 ARTICLE 2.

7 Sec. 07.05.050. SERVICE AREAS IN THE UNORGANIZED
8 BOROUGH. (a) A service area may be created within the un-
9 organized borough for the performance of services deemed
10 necessary or advisable by the legislature. The service area
11 may be created by act of the legislature or it may be created
12 by local option in the manner provided for the formation of
13 organized boroughs by chapter 10 of this title.

14 (b) The name of the service area contains a word or
15 words indicating the service it performs. It may exercise
16 any powers delegated to it by the legislature, except that it
17 may not levy taxes.

18 Sec. 07.05.060. SUPERVISORY BOARD. The powers and
19 duties of a service area in the unorganized borough are exer-
20 cised by a supervisory board. The supervisory board consists
21 of five members each of whom serves a three-year term or
22 until his successor is elected and qualified, except that a
23 supervisory board which succeeds the governing body of a
24 special service district is composed of the same number of
25 members serving the same terms as the governing body which
26 succeeds. The terms of the board members are staggered.
27 The board shall annually select a chairman, a secretary and
28 a treasurer.

29 Sec. 07.05.070. ELECTIONS. The election of members of

1 the supervisory board shall be carried out as nearly as
2 possible in conformity with the provisions of ch. 30 of this
3 title.

4 Sec. 07.05.080. POWERS OF CERTAIN SERVICE AREAS. (a)
5 The supervisory board of service areas having the responsi-
6 bility for education within the area has the exclusive
7 management and control of school matters in the district,
8 subject to the state school laws and regulations promulgated
9 by the Department of Education. In areas in which a city or
10 cities lie, they follow the procedures set forth for an in-
11 dependent school district (AS 14.15.390) except as otherwise
12 provided in this chapter. The supervisory board may not
13 change the levy provided by this chapter, but shall coordinate
14 with the city council to the greatest extent possible, and
15 may make recommendations to the legislature concerning the
16 levy. For purposes of the Public School Foundation Program,
17 service areas providing the service of education are treated
18 like districts.

19 (b) The supervisory board of a service area having
20 responsibility for public utilities has the powers and duties
21 formerly exercised by and given to a public utility, except
22 as otherwise provided in this chapter.

23 Sec. 07.05.090. LEVY OF TAX. (a) There are hereby
24 levied in each service area coextensive with and having the
25 same duties as a special service district in existence on
26 June 30, 1963, sales and property taxes having the same rate
27 and applicability as taxes in effect in those areas on June
28 30, 1963.

29 (b) Effective upon the formation of any service area

1 formed after July 1, 1963, there is levied within the service
2 area a property tax as follows:

3 (1) for a service area providing the service of
4 education, 3.5 mills per dollar of assessed valuation,

5 (2) for a service area providing any other service
6 or combination of services, 3.5 mills per dollar of assessed
7 valuation.

8 (c) The state shall refund to the service area all
9 taxes collected under this section.

10 Sec. 07.05.100. ASSESSMENT AND COLLECTION OF TAXES IN
11 SERVICE AREAS. Each service area shall as agent for the
12 state assess property and collect taxes as provided for, and
13 subject to the same requirements as, an independent school
14 district (AS 14.15.380 - 14.15.590). The supervisory board
15 shall annually give to the Department of Revenue an account-
16 ing of all taxes collected on behalf of the state, but may
17 retain the money collected and credit it against the refund
18 due from the state under this chapter.

19 Sec. 07.05.110. BONDS. The service area may take over
20 and assume bonded indebtedness for capital improvements
21 necessary to carry out its assigned functions, subject to
22 authorization and ratification as provided in Art. IX, sec.
23 9 of the state constitution. Service areas taking over the
24 functions of special service districts assume the bonded in-
25 debtedness without further authorization and ratification.
26 The service area may sell bonds authorized but not sold by
27 the special service area.

28 Sec. 07.05.120. EMPLOYEES. Employees of service areas
29 are not employees of the state for personnel, pay or

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retirement purposes.

* Sec. 4. This Act takes effect on July 1, 1963.

A GENERAL AND SECTIONAL ANALYSIS FOR
HB 220, AN ACT TO PROVIDE FOR THE
FORMATION OF SPECIAL SERVICE AREAS IN
THE UNORGANIZED BOROUGH

Prepared by Representative Bennie Leonard

I. General

House Bill 220 is intended to provide a constructive solution to the problem of local government transition to boroughs, avoiding on the one hand the postponement of the date by which boroughs must be formed, which would lead to loss of momentum and eventual scrapping of the whole borough plan, and on the other hand, the incorporation of boroughs by the legislature, with its attendant confusion and hardship on the people, rather than by the voluntary act of the inhabitants.

This solution makes use of the constitutional provision which allows the legislature to provide for the performance of needful services in the unorganized borough. Sec. 6 of Art. 10 of the Constitution reads:

"Section 6. The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough."

The bill implements this provision by creating the necessary law for the actual creation of service areas, and creates a service area to correspond to each existing special service district. This bill takes as a starting point the provisions of AS 07.05.010, which reads:

"Sec. 07.05.010. All areas in the state which are not within the boundaries of an organized borough constitute a single unorganized borough."

Since only one borough is now in existence, the legislature, acting as the borough assembly for the unorganized borough, can provide for the performance of the services now being carried out in the unorganized borough by the independent school districts, the public utility districts, and the like. As boroughs are formed, the unorganized borough will shrink, until finally every area suitable for the formation of a borough will be incorporated. The law proposed by this bill will continue to have vitality, however, for there

will be service areas in many places which do not meet the standards for the incorporation of a borough. Service areas which are within the boundaries of a borough subsequently formed will be absorbed by the borough.

It is not expected that the service areas in parts of the state meeting standards for incorporation as a borough will be retained for a period longer than necessary for the people of the area to incorporate as a borough. The reasons for this are that the service area cannot have the power of taxation (Sec. 2, Art. 10, of the Constitution prohibits the delegation) and there will be a need in those areas for a governmental unit which can exercise its powers over a wide range of objects in the manner customary for such local government units.

Service areas created under this bill will act for the legislature in carrying out the detailed work of providing services in the unorganized borough. The bill provides for the creating of future special service areas, as the need or demand arises in other sections of the unorganized borough, by a procedure analogous to that for forming a borough. Service areas may be formed to provide any of a variety of services, including schools, control of special water problems, and general public utility services. Taxes suitable for the proper carrying out of the services are levied by this bill, and other fiscal provisions made to permit the simplest possible administration.

The bill has been drawn up to reduce to a minimum the difficulties of transition from existing special service districts to service areas. Specific attention has been given to such problems as the transfer and assumption of bonded indebtedness, the transfer of assets, including property, the avoidance of the possibility of escheat to the state, the continuity of performance of such important functions as the signing of checks, and the sale of bonds authorized and ratified, but not sold by the district to which the service area succeeds.

II. Analysis by Section

Section 1. This section is self-explanatory.

Section 2. This section repeals and re-enacts the transition section to provide for the conversion of special service areas which exist under present laws, and consist of public utility districts, independent school districts, an incorporated school district, and a health district, into service areas which the constitution authorizes to be created under the unorganized borough. It transfers to each new area all powers, except the power to tax, rights and duties of the former service area, and provides that the real and personal

property under the control of the district shall be taken over by the area. A smooth transfer is assured by the provision that the former public utility district or school board is to take over immediately as the supervisory board of the new service area. A new election for supervisory board members is provided for.

Section 3. This section adds new sections which compose article 2 of chapter 5 of the borough title. They are as follows:

Sec. 07.05.050. SERVICE AREAS IN THE UNORGANIZED BOROUGH. Subsection (a) provides that service areas may be created by either act of the legislature, acting as assembly for the unorganized borough, or by a procedure analogous to that used in incorporation of a borough by local option of the inhabitants of any area. Local option means the filing of a petition with the Local Affairs Agency, the review of it by that agency, the report to and hearing and determination by the Local Boundary Commission, and the subsequent vote by the people of the area.

Subsection (b) provides that the service area is to have a designation in its name as to the service it performs, as "Anchorage School Service Area," or the like. There is a reiteration of the constitutional provision concerning the levy of taxes, with the purpose of making it absolutely clear that there is no intention to attempt to delegate the power to levy taxes.

Sec. 07.05.060. SUPERVISORY BOARD. In accordance with the provisions of sec. 6 of Art. X of the Constitution, which directs the legislature to "allow for maximum local participation and responsibility," this section provides that the powers and duties are to be exercised by the supervisory board. It provides for number of members, terms of office, and other matters concerning the board.

Sec. 07.05.070. ELECTIONS. This section specifies that procedure in elections shall be like the procedure in borough elections.

Sec. 07.05.080. POWERS OF CERTAIN SERVICE AREAS. Although Sec. 2 of the bill provides for a transition of all rights, powers and duties, this section deals more explicitly with education and public utilities, the functions of all but one of the existing special service districts. An incorporation by reference of the law governing the old special service districts is simpler because (1) it is not necessary to enact a large volume of legislation at this time, and (2) the personnel of the various areas are already familiar with the existing law

and its workings. It is contemplated that in the future the legislature may wish to revise this law, and make other provisions. A further consideration is that the title in which these laws are found is now being considered by the legislature as a topic for substantive revision by the Legislative Council.

It is provided that the supervisory board shall coordinate with the city council, and may make recommendations to the legislature. This provision is necessary because of the fact that under the constitution it is forbidden to the legislature to delegate the taxing power to a service area, and thus the provision included in AS 14.15.-400 which provides that the school board is to change the levy is inappropriate. If coordination with the city council is impossible, it will be necessary for the supervisory board to request action by the legislature, as the borough assembly.

Finally, it is provided that the service areas are to be treated like other school districts for the purposes of the Public School Foundation program.

Sec. 07.05.090. LEVY OF TAX. Subsection (a) of this section levies taxes in the service areas. As the measure of the tax it uses the tax structures existing in the present service districts, which will be succeeded by service areas. This subsection is the actual tax levy, and although existing tax structures are incorporated by reference, no change may be made in them without specific act of the legislature.

Subsection (b) levies a tax prospectively in any areas which are to come into being. This is to ensure that there will be an immediate source of revenue to the state for the services which the service area will be providing. It is necessary to levy the tax prospectively as it is beyond the power of the supervisory board to levy it, and it would be undesirable for new service areas to be unable to operate until the legislature could act on each individual case. Property may be assessed by an assessor of the area, by agreement with another local authority for the use of its assessor, or by the state assessor. Taxes are collected by the service area.

Subsection (c) of the section provides for the refund of the taxes levied by the state to the service area from which collected. This is a total refund. Precedent for the refund of taxes is found in the present cigarette and motor fuel taxes. No sharing is contemplated

here with the state, as the service area is providing all of the services.

Sec. 07.05.100. ASSESSMENT AND COLLECTION OF TAXES IN SERVICE AREAS. This section provides for the assessment of property by the service area, and for the function of collecting taxes within it as the agent of the state. In order to simplify bookkeeping, the service area is entitled to retain revenues collected, and to credit them against the refund due from the state.

Sec. 07.05.110. BONDS. This section provides for the assumption of bonded indebtedness for carrying out the functions of the service area, and provides that bonds already sold may be assumed without further ratification or authorization by the supervisory board. Finally, it allows bonds to be sold by the supervisory board if previously authorized and ratified by the preceding special service district.

Sec. 07.05.120. EMPLOYEES. This clarifies the status of the employees of school districts and PUDs, which continue to be employees of the area, and not of the state. This section does not affect the operation of state laws relating to teachers.

Section 4. This Act takes effect on the day the new service areas come into existence.