

Original Sponsor:
Local Government by Request

Offered: 4/7/64
Referred: Judiciary

1 IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE
2 CS FOR HOUSE BILL NO. 338
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRD LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to claims against an in-
7 corporated borough, city, or other public
8 corporation of like character; and providing
9 for an effective date."

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

11 * Section 1. AS 29 is amended by adding a new chapter to read:

12 CHAPTER 85.

13 ARTICLE 1.

14 Sec. 29.85.010. ACTIONABLE CLAIMS AGAINST INCORPORATED
15 UNITS OF LOCAL GOVERNMENT. A person having any claim against
16 an incorporated borough, city, or other public corporation
17 of like character may bring an action against it in the
18 superior court. However, no action may be brought under
19 this section if the claim

20 (1) is based upon an act or omission of an
21 employee of the incorporated unit of local government, exer-
22 cising due care, in the execution of a valid or invalid
23 statute, charter, ordinance, resolution, motion, order, or
24 regulation; or based upon the exercise or performance or
25 the failure to exercise or perform a discretionary function
26 or duty on the part of an agency or an employee of the in-
27 corporated unit of local government, whether or not the
28 discretion involved is abused;

29 (2) is for damages caused by the imposition or

1 establishment of a quarantine by an incorporated unit of
2 local government;

3 (3) arises out of assault, battery, false imprison-
4 ment, false arrest, malicious prosecution, abuse of process,
5 libel, slander, misrepresentation, deceit, or interference
6 with contract rights.

7 Sec. 29.85.020. UNDERTAKING. At the time of filing the
8 complaint in an action against the incorporated unit of local
9 government, the plaintiff shall file an undertaking in a sum
10 fixed by the court. The undertaking shall be conditioned upon
11 payment by the plaintiff of costs incurred by the incorporated
12 unit of local government in the action if the plaintiff fails
13 to prosecute the action or fails to recover judgment.

14 Sec. 29.85.030. JUDGMENT FOR PLAINTIFF. If judgment
15 is rendered for the plaintiff, it shall be for the legal
16 amount found due from the incorporated unit of local govern-
17 ment with legal interest only from the date of judgment and
18 without punitive damages.

19 Sec. 29.85.040. TRIAL BY COURT. Actions against the
20 incorporated unit of local government under this chapter
21 shall be tried by the court without a jury.

22 Sec. 29.85.050. PAYMENT OF JUDGMENT AGAINST INCORPORATED
23 UNIT OF LOCAL GOVERNMENT. (a) No attachment or execution
24 shall issue against an incorporated unit of local government.
25 When a final judgment is rendered in an action against an
26 incorporated unit of local government, the clerk of the
27 court shall immediately transmit a certified copy of the judg-
28 ment to the incorporated unit of local government which shall
29 approve payment of the judgment if a sufficient appropriation

1 exists for payment. If a sufficient appropriation does not
2 exist for payment of the judgment and the unit of local gov-
3 ernment has authority to levy property taxes, the governing
4 body of the incorporated unit of local government shall levy
5 a tax sufficient to pay the judgment or settlement with
6 accrued interest at the time of the next annual property tax
7 levy. If a sufficient appropriation does not exist for pay-
8 ment of the judgment and the incorporated unit of local gov-
9 ernment does not have authority to levy property taxes, the
10 governing body of the incorporated unit of local government
11 shall levy a sales tax sufficient to pay the judgment or
12 settlement with accrued interest.

13 (b) Taxes levied to pay a final judgment against an
14 incorporated unit of local government may be levied in ex-
15 cess of any percentile or millage tax limitation imposed by
16 statute or charter. A sales tax levied to pay a final
17 judgment against an incorporated unit of local government
18 shall be levied without consent of the qualified voters of
19 the incorporated unit of local government.

20 Sec. 29.85.060. SETTLEMENT BY INCORPORATED UNIT OF
21 LOCAL GOVERNMENT. (a) The governing body of an incorporated
22 unit of local government may, with the approval of the court,
23 compromise, or settle any action filed under this chapter.
24 When the governing body of an incorporated unit of local
25 government compromises or settles an action, it shall approve
26 payment of the compromise or settlement if a sufficient ap-
27 propriation exists for payment. If a sufficient appropriation
28 does not exist for payment of the compromise or settlement
29 and the unit of local government has authority to levy proper-

1 ty taxes, the governing body of the incorporated unit of
2 local government shall levy a tax sufficient to pay the
3 judgment or settlement with accrued interest at the time of
4 the next annual property tax levy. If a sufficient appropri-
5 ation does not exist for payment of the compromise or settle-
6 ment and the incorporated unit of local government does not
7 have authority to levy property taxes, the governing body
8 of the incorporated unit of local government shall levy a
9 sales tax sufficient to pay the judgment or settlement with
10 accrued interest.

11 (b) Taxes levied to pay a compromise or settlement of
12 an action filed under this chapter may be levied in excess
13 of any percentile or millage tax limitation imposed by statute
14 or charter. A sales tax levied to pay a final judgment against
15 an incorporated unit of local government shall be levied
16 without consent of the qualified voters of the incorporated
17 unit of local government.

18 Sec. 29.85.070. RELATION TO HOME RULE CHARTERS. The
19 provisions of this chapter are exclusive of and supersede
20 all home rule charter provisions on the same subject in effect
21 on the effective date of this chapter. No home rule charter
22 provision may be adopted on the same subject after the ef-
23 fective date of this chapter.

24 * Sec. 2. AS 29.08 is amended by adding a new section to read:

25 ARTICLE 2.

26 Sec. 29.08.200. LIMIT ON LIABILITY FOR CLAIMS. AS
27 29.85 governing claims against incorporated units of local
28 government applies to home rule cities.

29 * Sec. 3. AS 07 is amended by adding a new chapter to read:

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CHAPTER 12. HOME RULE BOROUGHS

Sec. 07.12.200. LIMIT ON LIABILITY FOR CLAIMS. AS 29.85 governing claims against incorporated units of local government applies to home rule boroughs.

* Sec. 4. AS 09.65.070 as amended by Ch. 23, SLA 1964 is repealed.

* Sec. 5. The provisions of this Act do not apply to any claim against a unit of local government arising before the effective date of this Act. These claims may be presented and enforced to the same extent and subject to the same procedure and restrictions as if this Act had not been enacted.

* Sec. 6. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.