

1 IN THE SENATE BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2 SENATE BILL NO. 198

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide the procedure for deter-  
7 mining local government incorporation elec-  
8 tion contests; and providing for an effec-  
9 tive date."

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

11 \* Section 1. AS 29.10 is amended by adding a new section to  
12 read:

13 Sec. 29.10.017. ELECTION CONTESTS. (a) Ten persons,  
14 qualified to have voted in the incorporation election, may  
15 contest the election upon one or more of the following  
16 grounds:

17 (1) malconduct, fraud, or corruption on the part  
18 of an election official sufficient to change the results of  
19 the election;

20 (2) any corrupt practice defined by the Election  
21 Code (AS 15) sufficient to change the results of the elec-  
22 tion.

23 (b) The action may be brought in the superior court  
24 within 20 days after the date of the election.

25 \* Sec. 2. AS 29.10.018 is amended to read:

26 Sec. 29.10.018. ORDER DECLARING INCORPORATION. If it  
27 appears from the certificate of election filed with the clerk  
28 of the superior court that a majority of the votes cast were  
29 in favor of the incorporation [AND THAT THE LAW RELATING TO

1 INCORPORATION HAS BEEN SUBSTANTIALLY COMPLIED WITH], the  
2 superior court judge shall, by an order in writing entered in  
3 the records of the court, [ADJUDGE AND] declare that the  
4 community is a municipal corporation under the name of "the  
5 city of (here insert the name)." If no election contest is  
6 brought, the court shall enter the order on the day after the  
7 last day for bringing the contest. If an election contest is  
8 brought and decided in favor of incorporation, the court  
9 shall enter the order on the day after the contest is finally  
10 decided. From the time of the order the community is a city  
11 possessed of the powers and privileges prescribed in this  
12 chapter, and such other powers as may be given by law. The  
13 order shall describe the boundaries and state the name of the  
14 city. One certified copy of the order shall be filed in the  
15 office of the secretary of state and one copy shall be filed  
16 in the office of the magistrate of the district in which the  
17 corporation is situated.

18 \* Sec. 3. AS 29.15 is amended by adding a new section to  
19 read:

20 Sec. 29.15.096. ELECTION CONTESTS. (a) Ten persons,  
21 qualified to have voted in the incorporation election, may  
22 contest the election upon one or more of the following  
23 grounds:

24 (1) malconduct, fraud, or corruption on the part  
25 of an election official sufficient to change the results of  
26 the election;

27 (2) when a person certified as elected is not  
28 qualified as required by law;

29 (3) any corrupt practice defined by the Election

1 Code (AS 15) sufficient to change the results of the elec-  
2 tion.

3 (b) The action may be brought in the superior court  
4 within 20 days after the date of the election.

5 \* Sec. 4. AS 29.15.100(b) is amended to read:

6 (b) If a majority of the votes cast is in favor of  
7 incorporation, [AS SOON AS] the court [RECEIVES THE CERTIFI-  
8 CATE IT] shall enter an order declaring the community in-  
9 corporated as a city of the second class and declaring the  
10 five who received the highest number of votes for trustee  
11 elected. If less than a majority of votes cast is in favor  
12 of incorporation, the judge shall make an order declaring the  
13 community not incorporated. If no election contest is  
14 brought, the court shall enter the order on the day after the  
15 last day for bringing the contest. If an election contest  
16 is brought, the court shall enter the order on the day after  
17 the contest is finally decided.

18 \* Sec. 5. AS 07.10.120(f) is amended to read:

19 (f) Certification. If the majority of votes cast on  
20 the question are not for incorporation, the secretary of state  
21 shall so certify and the proposal is defeated. If the  
22 majority of votes cast on the question are for incorporation,  
23 the secretary of state shall so certify and the certification  
24 shall specify any powers adopted under the provisions of (e)  
25 of this section, and shall declare that the area in which  
26 the election was held is an organized borough and a municipal  
27 corporation; that the organized borough possesses all the  
28 powers and privileges as prescribed by this title; and that  
29 the boundaries and borough seat are those specified in the

1 petition approved by the qualified voters. If the majority  
2 of votes cast on the question are in favor of an appointed  
3 borough manager, the secretary of state shall so certify and  
4 shall not certify any candidate as borough chairman. If the  
5 majority of votes cast on the question are not in favor of a  
6 borough manager, the secretary of state shall certify the  
7 name of the candidate who received the highest number of  
8 votes as borough chairman. The secretary of state shall also  
9 certify the names of those candidates who received the highest  
10 number of votes for the school board and for the available  
11 seats to be elected to the assembly from the area outside  
12 first class cities and shall issue election certificates to  
13 the elected candidates. The secretary of state shall issue  
14 the certificates on the day after the last day for bringing  
15 an election contest, if no contest is brought. If an elec-  
16 tion contest is brought, the secretary of state shall issue  
17 the certificates on the day after the contest is finally  
18 decided.

19 \* Sec. 6. AS 07.10 is amended by adding a new section to  
20 read:

21 Sec. 07.10.122. ELECTION CONTESTS. (a) Ten persons,  
22 qualified to have voted in the incorporation election, may  
23 contest the election upon one or more of the following  
24 grounds:

25 (1) malconduct, fraud, or corruption on the part  
26 of an election official sufficient to change the results of  
27 the election;

28 (2) when a person certified as elected is not  
29 qualified as required by law;

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(3) any corrupt practice defined by the Election Code (AS 15) sufficient to change the results of the election.

(b) The action may be brought in the superior court within 20 days after the date of the election.

\* Sec. 7. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.