

Introduced: 2/11/66
Referred: Local Govern-
ment

1 IN THE HOUSE

BY POLAND, STEVENS, RADER AND
ENGSTROM BY REQUEST

2 HOUSE BILL NO. 409

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing a borough and first
7 class and home rule cities within the
8 borough to form a single unit of local
9 government upon approval by public referen-
10 dum; and providing for an effective date."

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

12 * Section 1. AS 07 is amended by adding a new chapter to read:

13 CHAPTER 37. FORMATION OF CONSOLIDATED BOROUGH.

14 Sec. 07.37.010. FORMATION OF CONSOLIDATED BOROUGH
15 AUTHORIZED. In order to promote local autonomy, eliminate
16 duplication of local governmental units within a borough
17 and foster more efficient services with lessened local tax
18 burdens, an organized borough and first class and home rule
19 cities within the borough may upon approval by public refer-
20 endum form a consolidated borough to provide a single unit
21 of local government. Formation of a consolidated borough
22 must be in accordance with the provisions of this chapter
23 and vests the borough with home rule status as provided in
24 this chapter pursuant to the Legislature's authority under
25 Article X, Section 10 of the state constitution.

26 Sec. 07.37.020. CITY TO PROPOSE CONSOLIDATED BOROUGH.

27 (a) The council of a first class or home rule city within a
28 first or second class borough may, by affirmative vote of a
29 majority of its total membership, adopt a resolution propos-

1 ing formation of a consolidated borough in the manner
2 authorized by this chapter. The council shall transmit a
3 copy of the resolution, signed by at least a majority of
4 the total membership of the council, to the assembly of the
5 borough within which the city is located.

6 (b) The resolution authorized by (a) of this section
7 may be adopted by initiative of city voters in the manner
8 prescribed for exercise of the power of initiative under
9 AS 29.65.010 - 29.65.030 or, in the case of a home rule city,
10 by home rule initiative provision adopted pursuant to AS
11 29.65.060. A resolution adopted as authorized under this
12 section shall be transmitted by the council to the assembly
13 of the borough within which the city is located.

14 (c) A resolution adopted under this section may include
15 conditions placing a limit on the period of time during
16 which the city's proposal is held open for borough assembly
17 action and other conditions of a procedural nature conforming
18 with the provisions of this chapter and relating to assembly
19 action on the city's proposal.

20 Sec. 07.37.030. BOROUGH MAY SET CHARTER COMMISSION
21 ELECTION. (a) If the assembly of a first or second class
22 borough receives a resolution proposing formation of a
23 consolidated borough from each first class and each home
24 rule city within the borough, the assembly may, by affirma-
25 tive vote without weighted voting of a majority of its total
26 membership, adopt a resolution establishing a charter
27 commission for the purpose of preparing a proposed home rule
28 charter for a consolidated borough including a plan for
29 dissolution of first class and home rule cities within the

1 borough.

2 (b) The resolution authorized by (a) of this section
3 may be adopted by initiative of borough voters in the manner
4 prescribed for the exercise of the power of initiative
5 under AS 29.65.010 - 29.65.030.

6 (c) A resolution adopted under this section must
7 provide for the election by the qualified voters of the
8 borough of eight charter commissioners, four of whom shall
9 have been qualified voters of first class or home rule cities
10 within the borough for the three years immediately preceding
11 the election, and four of whom shall have been qualified
12 voters of the borough residing in the area outside cities
13 for the three years immediately preceding the election. The
14 resolution shall fix a date of election of charter commission-
15 ers at a special or regular borough election. The date fixed
16 must occur not less than 60 or more than 120 days after the
17 date of adoption of the resolution establishing the commission.

18 Sec. 07.37.040. NOMINATION TO CHARTER COMMISSION. Candi-
19 dates for the charter commission may be nominated by the
20 assembly upon the affirmative vote without weighted voting of
21 a majority of the total membership of the assembly. Candi-
22 dates may also be nominated by petition filed with the borough
23 clerk and signed, in the case of candidates who are residents
24 of a city within the borough, by 25 qualified voters of the
25 city, and, in the case of candidates who are residents of
26 the borough in the area outside cities, by 25 qualified
27 voters who are borough residents in the area outside cities.
28 Nominations must be made by the assembly or nominating peti-
29 tions filed with the clerk of the assembly no later than 30

1 days after the date of the adoption of the resolution author-
2 ized under sec. 30 of this chapter.

3 Sec. 07.37.050. CHARTER COMMISSION ELECTION. (a) The
4 borough clerk shall prepare the ballots for the charter com-
5 mission election and shall give published notice of and other-
6 wise conduct the election in the manner in which special or
7 regular municipal elections are conducted. In addition, the
8 clerk shall publish notice of the election by radio and
9 television in a manner intended to apprise the population of
10 the borough of the charter commission election.

11 (b) Qualified voters of cities within the borough may
12 vote in the charter commission election upon the candidacy
13 of all candidates who are residents of cities within the
14 borough. Qualified voters of the borough residing in the
15 area outside cities may vote in the election upon the candi-
16 dacy of all candidates who are residents of the borough in
17 the area outside cities.

18 (c) At the charter commission election, those four
19 candidates who are residents of cities within the borough and
20 who receive the highest number of votes cast for candidates
21 who are residents of cities shall be elected as charter com-
22 missioners. Those four candidates who are residents of the
23 borough in the area outside cities and who receive the highest
24 number of votes cast for candidates who are residents of the
25 borough in the area outside cities shall be elected as charter
26 commissioners. The borough clerk shall certify the election
27 results to the assembly and notify the successful candidates
28 of their election.

29 Sec. 07.37.060. CHARTER COMMISSION ORGANIZATION AND

1 PROCEDURE.(a)The charter commission authorized by this chapter
2 shall hold its first meeting within 30 days of the date of
3 certification of its election. It shall seek to elect one
4 additional member to the commission who will serve as its
5 chairman. The person elected must be a resident of the
6 borough. If a majority of the commission is unable to agree
7 upon a chairman, or the person elected declines to serve, the
8 commission shall give notice of that fact in writing to the
9 borough assembly, which shall then, by affirmative vote
10 without weighted vote of a majority of its total membership,
11 appoint a borough resident to serve as chairman of the com-
12 mission.

13 (b) A majority of the total membership of the charter
14 commission shall constitute a quorum. Decisions of the com-
15 mission shall be by a majority vote of a quorum.

16 (c) The charter commission may, as it deems necessary,
17 elect officers other than a chairman from among its own mem-
18 bership, adopt rules governing its procedures and hire and
19 discharge commission employees. Rules adopted must conform
20 with the provisions of this chapter.

21 (d) Meetings of the charter commission shall be open to
22 the public at all times and a journal of commission proceedings
23 kept.

24 (e) The charter commission shall have power to take
25 testimony and issue subpoenas, to compel the attendance of
26 officers and employees of the borough and each city within
27 the borough, to compel the production of all books, documents
28 and other papers of the city and borough which are not re-
29 quired to be kept confidential by law, and to administer oaths

1 to persons appearing before it to testify. The commission
2 may enforce these powers in the manner prescribed for ad-
3 ministrative agencies under AS 44.62.590.

4 (f) Costs, fees and other expenses incurred by the
5 charter commission are a debt of the borough and shall be
6 paid upon proper verification. No salary or per diem allow-
7 ances or other reimbursement may be paid charter commissioners.

8 Sec. 07.37.070. CHARTER PREPARATION. Within one year
9 after the date of its first meeting, the charter commission
10 authorized by this chapter shall prepare and adopt a proposed
11 home rule charter for the borough. The charter shall include
12 among its provisions:

13 (1) a plan for dissolution of each first class or
14 home rule city within the borough;

15 (2) provision for adjustment of existing bonded
16 indebtedness and other obligations in a manner which will pre-
17 serve a fair and equitable burden of taxation for debt service;

18 (3) provision for exercise by the consolidated
19 borough of areawide powers required under this title to be
20 exercised by second class boroughs and such other areawide
21 powers, if any, as the commission proposes to be exercised
22 on an areawide basis;

23 (4) provision for exercise by the consolidated
24 borough of such powers, if any, as the commission proposes
25 to be exercised in the area of the borough outside cities;

26 (5) provision for the establishment of such
27 service areas, if any, as the commission proposes to provide
28 special services within the consolidated borough;

29 (6) provision for the organization, authority and

1 responsibilities of the borough executive, including provision
2 for either the appointment of a borough manager or election
3 of a borough chairman;

4 (7) provision for the organization, general powers
5 and responsibilities of the borough assembly;

6 (8) the transfer to the consolidated borough, or
7 other disposition, of property and other rights, claims,
8 assets and franchises of first class and home rule cities to
9 be dissolved under the charter;

10 (9) provision establishing the number of members
11 of the assembly;

12 (10) provision for establishment of borough
13 sections for the election of assemblymen on the basis of
14 substantially equal population among sections;

15 (11) provisions governing the first election of
16 assemblymen of the consolidated borough and the duration of
17 the terms of office of members of the borough assembly serving
18 at the time the proposed charter may become effective;

19 (12) provision for exercise of the rights of
20 initiative and referendum as required by AS 29.65.060;

21 (13) a method of amending the charter;

22 (14) provisions governing the effect after the
23 charter may become effective of ordinances, rules and regu-
24 lations of first class and home rule cities to be dissolved
25 under the charter;

26 (15) the date on which the charter, if approved
27 at the charter election required by sec. 100 of this chapter,
28 shall be deemed effective;

29 (16) other charter provisions which the charter

1 commission elects to include and which may be included in a
2 home rule charter under the provisions of this chapter and
3 the constitution of the state.

4 Sec. 07.37.080. FILING OF PROPOSED CHARTER. Upon the
5 adoption of a proposed home rule charter by the charter
6 commission, the charter shall be signed by at least a majority
7 of the total membership of the commission and shall be filed
8 with the borough clerk. A copy with signatures affixed shall
9 also be filed with the clerk of each city within the borough.

10 Sec. 07.37.090. PUBLICATION AND POSTING OF PROPOSED
11 CHARTER. Within 10 days after filing of the proposed charter,
12 the borough clerk shall have it published once in at least
13 one newspaper having general circulation within the borough,
14 if there is a newspaper having general circulation within the
15 borough, and in each edition of the newspaper issued during
16 the day of publication. In addition, the clerk shall have
17 a copy of the proposed charter posted in at least three public
18 places within each city of the borough and in at least three
19 public places within the borough area outside cities. Copies
20 of the proposed charter shall be made available to the public
21 at both the office of the borough clerk and the office of the
22 clerk of each city within the borough. The clerk shall pub-
23 lish notice by radio and television of the publication, post-
24 ing and availability of the proposed charter in a manner
25 intended to apprise the entire borough population of the
26 existence of the proposed charter.

27 Sec. 07.37.100. ELECTION ON CHARTER. (a) The proposed
28 charter adopted by the charter commission shall be submitted
29 for approval or rejection at the next regular borough election

1 occurring at least 60 days after the date on which the
2 charter is filed with the borough clerk and the clerk of
3 each city within the borough. The borough clerk shall
4 prepare the ballots for use in the election and shall give
5 published notice of and otherwise conduct the election in
6 the manner in which regular municipal elections are con-
7 ducted. In addition, the clerk shall publish notice of the
8 election by radio and television in a manner intended to
9 apprise the entire borough population of the election.

10 (b) A person who is a qualified voter of the borough
11 may vote in the election on the proposed charter.

12 (c) If a majority of the qualified voters voting on
13 the question of approval or rejection of the proposed charter
14 vote to approve the charter, it is ratified. If the charter
15 is ratified, two copies of the charter shall be filed with
16 each of the following authorities:

- 17 (1) secretary of state;
- 18 (2) director of the Local Affairs Agency;
- 19 (3) district recorder for the area of the borough;
- 20 (4) clerk of the borough.

21 Sec. 07.37.110. EFFECT OF CHARTER. Until ratified as
22 provided in sec. 100(c) of this chapter, the proposed
23 charter adopted by a charter commission under the provisions
24 of this chapter has no legal effect upon the status of either
25 the borough concerned or a city within the borough proposed
26 to be dissolved under the charter. Upon ratification, the
27 charter becomes effective on the date fixed in the charter.

28 Sec. 07.37.120. EFFECT OF CHARTER AFTER RATIFICATION.

29 Upon taking effect, the charter of a consolidated

1 borough operates to dissolve first class and home rule cities
2 within the borough in accordance with the provisions of the
3 charter and vests the borough with all the powers, duties,
4 functions and other incidents of a home rule borough as
5 conferred by the constitution of the state, the charter and
6 ordinances adopted pursuant to the charter.

7 Sec. 07.37.130. BOROUGH RIGHT TO STATE AND FEDERAL AID
8 PRESERVED. All provisions of law authorizing contributions
9 of any kind, in money or otherwise, from the state or federal
10 government to organized boroughs shall remain in full force
11 and effect with respect to the consolidated borough as in
12 the case of other organized boroughs.

13 Sec. 07.37.140. REFERENDUM. (a) A city council reso-
14 lution adopted under Sec. 20 (a) of this chapter may be voted
15 upon by referendum vote in the manner prescribed for refer-
16 enda under AS 29.65.020 and AS 29.65.040, or, in the case of
17 home rule cities, in the manner prescribed by home rule
18 charter provision pursuant to AS 29.65.060. If rejected by
19 referendum vote, the resolution is nullified.

20 (b) A borough assembly resolution adopted under Sec.
21 30 (a) of this chapter may be voted upon by referendum vote
22 in the manner prescribed for referenda under AS 29.65.020
23 and AS 29.65.040, except that petitions for the referendum
24 vote may be signed only by qualified voters of the borough
25 residing in the area outside cities, and a referendum vote
26 on the question is limited to qualified voters of the
27 borough residing in the area outside cities. If rejected
28 by referendum vote, the resolution is nullified.

29 Sec. 07.37.150. CHAPTER IS ALTERNATIVE PROCEDURE FOR

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CITY DISSOLUTION AND BOROUGH CHARTER ADOPTION. The provisions of this chapter establish an alternative to methods authorized under other provisions of law or charter for dissolution of cities and adoption of home rule charters by organized boroughs.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.