

Introduced: 2/7/67
Referred: Local Government
and Judiciary

1 IN THE HOUSE

BY LOCAL GOVERNMENT COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 128

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing a borough and cities within the
7 borough to form a single unit of local government upon
8 approval by public referendum; and providing for an
9 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. FORMATION OF A MERGED OR CONSOLIDATED
13 CITY OR BOROUGH.

14 Sec. 29.85.010. METHODS OF MERGER OR CONSOLIDATION. Two methods
15 may be used by home rule and general law municipalities to initiate
16 merger or consolidation:

17 (1) petition to the Local Boundary Commission under regula-
18 tions adopted by the commission, or

19 (2) the local option method specified in secs. 20 - 210
20 of this chapter.

21 Sec. 29.85.020. PETITION. (a) Residents of two or more munici-
22 palities or the governing body of a municipality by resolution may
23 file a merger or consolidation petition with the Local Affairs Agency.
24 If the petition is from the residents it must be signed by a number of
25 municipal voters of each municipality equal to at least 10 per cent of
26 the number of votes cast in its last regular election.

27 (b) The petition includes

28 (1) the name and class of each municipality;

29 (2) the name and class of the proposed municipality;

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1 (3) a statement that either merger or consolidation is
2 desired.

3 **Sec. 29.85.030. REVIEW.** The Local Affairs Agency shall review a
4 petition for content and signatures and shall return a deficient peti-
5 tion for correction or completion.

6 **Sec. 29.85.040. INVESTIGATION.** If the petition contains the
7 required information and signatures, the Local Affairs Agency shall
8 investigate the proposal.

9 **Sec. 29.85.050. REPORT AND HEARING.** (a) The Local Affairs
10 Agency shall report its findings to the Local Boundary Commission with
11 its recommendations regarding the merger or consolidation.

12 (b) The Local Boundary Commission shall hold at least one public
13 hearing in each of the municipalities included in the merger or consoli-
14 dation petition, unless officials of the municipalities agree to a
15 single hearing.

16 **Sec. 29.85.060. STANDARDS AND DECISION.** (a) Standards for the
17 incorporation of the proposed merged or consolidated municipality,
18 whether it is a city or a borough, are as follows:

19 (1) The population of the area proposed for incorporation
20 shall be interrelated and integrated as to its social, cultural, and
21 economic activities. The population shall be qualified to assume the
22 duties arising out of incorporation, and shall be large enough and
23 stable enough to support the operation of the proposed municipality.

24 (2) The boundaries of the proposed municipality shall
25 conform generally to the natural geographic lines of the area proposed
26 for incorporation, and shall include all areas necessary and proper
27 for the full development of integrated local government services.

28 (3) The economy of the proposed municipality shall encompass
29 a trading area with the human and financial resources capable of

1 providing an adequate level of governmental services.

2 (b) If the Local Boundary Commission determines that the proposed
3 municipality fails to meet the standards for incorporation, it shall
4 reject the petition. If the commission determines that the proposed
5 municipality meets these standards, it shall accept the petition and
6 immediately call an election for a charter commission. If the commis-
7 sion determines that the proposed boundaries can be altered to meet
8 the standards, it may change the proposal and accept the petition.
9 The decision may be appealed under the Administrative Procedure Act.

10 Sec. 29.85.070. COMPOSITION OF CHARTER COMMISSION. The charter
11 commission members shall be qualified voters and shall consist of
12 eleven citizens, three of whom shall be residents elected at large
13 from the area of the borough and eight of whom shall be (1) residents
14 of and elected from the area outside cities in the borough or (2)
15 residents of and elected from a city or cities in the borough. The
16 number representing each of these areas shall be proportionate to the
17 respective populations as determined by the Local Affairs Agency. The
18 Local Affairs Agency shall fix a date for election of charter commis-
19 sioners at a special election. The date fixed must occur not less than
20 60 nor more than 120 days after the decision of the Local Boundary
21 Commission that the proposed municipality meets the standards prescribed
22 for incorporation.

23 Sec. 29.85.080. NOMINATION OF CHARTER COMMISSION. Candidates for
24 the charter commission may be nominated by a council or the assembly
25 upon the affirmative vote without weighted voting of a majority of the
26 total membership of the assembly. Candidates may also be nominated by
27 petition filed with the Local Affairs Agency and signed, in the case of
28 candidates who are residents of a city within the borough, by 25

1 qualified voters of the city, and, in the case of candidates who are
2 residents of the borough in the area outside cities, by 25 qualified
3 voters who are borough residents in the area outside cities, or in the
4 case of members at large by 25 qualified voters who are residents of
5 the borough. Nominations must be made by the assembly or council on
6 nominating petitions filed with the Local Affairs Agency no later than
7 30 days after the date of the decision authorized under sec. 60(b) of
8 this chapter.

9 Sec. 29.85.090. CHARTER COMMISSION ELECTION. (a) The secretary
10 of state shall prepare the ballots for the charter commission election
11 and shall give published notice of and otherwise conduct the election
12 in the manner in which special or regular state elections are conducted
13 in the area affected. In addition, the secretary of state shall pub-
14 lish notice of the election by radio and television in a manner intended
15 to apprise the population of the borough of the charter commission
16 election. The secretary of state may delegate all or part of his duties
17 under this subsection to the borough or city clerk.

18 (b) Qualified voters of cities within the borough may vote in
19 the charter commission election for all candidates who are residents
20 of cities within the borough. Qualified voters of the borough residing
21 in the area outside cities may vote in the elections for all candidates
22 who are residents of the borough in the area outside cities. Qualified
23 voters of the borough may vote in the election for all candidates who
24 are elected at large.

25 (c) The secretary of state shall certify the election results to
26 the assembly and council of those candidates receiving the highest
27 number of votes cast in their respective categories and notify the
28 successful candidates of their election.

29 (d) Costs of the election shall be paid by the state.

1 **Sec. 29.85.100. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.**

2 **(a) The charter commission authorized by this chapter shall hold its**
3 **first meeting within 30 days of the date of certification of its**
4 **election. It shall elect one member of the commission who will serve**
5 **as its chairman.**

6 **(b) A majority of the total membership of the charter commission**
7 **shall constitute a quorum. Decisions of the commission shall be by**
8 **majority vote of a quorum.**

9 **(c) The charter commission may, as it considers necessary,**
10 **elect officers other than a chairman from among its own membership,**
11 **adopt rules governing its procedures and hire and discharge commission**
12 **employees and professional advisory personnel. Rules adopted must**
13 **conform with the provisions of this chapter.**

14 **(d) Meetings of the charter commission shall be open to the**
15 **public at all times and a journal of commission proceedings kept.**

16 **(e) The charter commission shall have power to take testimony**
17 **and issue subpoenas, to compel the attendance of officers and employees**
18 **of the borough and of each city within the borough, to compel the pro-**
19 **duction of all books, documents and other papers of the borough and a**
20 **city within the borough except those required to be kept confidential**
21 **by law, and to administer oaths to persons appearing before it to**
22 **testify. The commission may enforce these powers in the manner pre-**
23 **scribed for administrative agencies under AS 44.62.590.**

24 **(f) Costs, fees and other expenses incurred by the charter com-**
25 **mission shall be paid by the state upon proper verification by the**
26 **Local Affairs Agency. Before commencing its work, the charter commie-**
27 **ssion shall submit a proposed budget to the Local Affairs Agency which**
28 **shall approve or disapprove it within 15 days from its receipt. The**
29 **budget may be amended in the same manner from time to time.**

1 **Sec. 29.65.110. CHARTER PREPARATION.** Within one year after the
2 date of its first meeting, the charter commission authorized by this
3 chapter shall prepare and adopt a home rule charter for the proposed
4 municipality. The charter shall include among its provisions

- 5 (1) a plan for dissolution of each first class and each
6 home rule city within the borough or the dissolution of the borough;
7 (2) provision for adjustment of existing bonded indebtedness
8 and other obligations;
9 (3) provision for the procedure for the establishment of
10 service areas;
11 (4) provision for the organization, authority and responsi-
12 bilities of the municipal executive who may be either an elected chief
13 executive or an appointed manager;
14 (5) provision for the organization, powers and responsibili-
15 ties of the municipality;
16 (6) the transfer to the municipality, or other disposition,
17 of property and other rights, claims, assets and franchises of a
18 borough or city to be dissolved under the charter;
19 (7) provision establishing the number of members of the
20 governing body;
21 (8) provision for the election of members of the governing
22 body;
23 (9) provisions governing the first election of members of
24 the governing body of the municipality;
25 (10) provision for exercise of the rights of initiative and
26 referendum as required by AS 29.65.060;
27 (11) a method of amending the charter;
28 (12) provisions governing the effect after the charter
29 becomes effective or ordinances, rules and regulations of a borough

1 or city to be dissolved under the charter;

2 (13) the date on which the charter, if approved at the charter
3 election required by sec. 140 of this chapter, is effective;

4 (14) other charter provisions which the charter commission
5 elects to include and which may be included in a home rule charter under
6 the provisions of this chapter and the constitution of the state.

7 Sec. 29.85.120. FILING OF PROPOSED CHARTER. Upon adoption of a
8 proposed home rule charter by the charter commission, the charter shall
9 be signed by at least a majority of the total membership of the commis-
10 sion and shall be filed with the borough clerk. A copy with signatures
11 affixed shall also be filed with the clerk of each city within the
12 borough and the Local Affairs Agency.

13 Sec. 29.85.130. PUBLICATION AND POSTING OF PROPOSED CHARTER.
14 Within 10 days after filing of the proposed charter, the Local Affairs
15 Agency shall have it published once in at least one newspaper having
16 general circulation within the borough, if there is a newspaper having
17 general circulation within the borough, and in each edition of the news-
18 paper issued during the day of publication. In addition, the Local
19 Affairs Agency shall have a copy of the proposed charter posted in at
20 least three public places within each city of the borough and in at
21 least three public places within the borough area outside cities.
22 Copies of the proposed charter shall be made available to the public
23 at both the office of the borough clerk and the office of the clerk
24 of each city within the borough. The Local Affairs Agency shall publish
25 notice by radio and television of the publication, posting and avail-
26 ability of the proposed charter in a manner intended to apprise the
27 entire borough population of the existence of the proposed charter.

28 Sec. 29.85.140. ELECTION ON CHARTER. (a) The proposed charter
29 adopted by the charter commission shall be submitted for approval or

1 rejection at a special election called by the secretary of state
2 occurring at least 30 days but not more than 90 days after the date on
3 which the charter is filed with the borough clerk and the clerk of each
4 city within the borough. The secretary of state shall supervise the
5 election in the general manner prescribed by the Alaska Election Code
6 (AS 15.05 - 15.60). The state shall pay election costs.

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

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

- 13 (1) secretary of state;
- 14 (2) director of the Local Affairs Agency;
- 15 (3) district recorder for the area of the borough;
- 16 (4) clerk of the borough;
- 17 (5) clerk of each city in the borough;

18 (d) The secretary of state shall certify the election results.

19 Sec. 29.85.145. **FIRST ELECTION OF GOVERNING BODY.** If merger or
20 consolidation is approved, the first election of members of the
21 governing body of the merged or consolidated municipality shall be
22 held in the manner provided in the charter. The election date shall
23 be not less than 60 nor more than 90 days after the date of certifica-
24 tion of charter election results.

25 Sec. 29.85.147. **EFFECTIVE DATE OF MERGER OR CONSOLIDATION.** The
26 date on which all members of the first governing body of the merged
27 or consolidated municipality are declared elected shall be the effec-
28 tive date for the merger or consolidation.

29 Sec. 29.85.150. **EFFECT OF CHARTER.** Until ratified as provided

1 in sec. 140 of this chapter and new governing body members elected, the
2 proposed charter adopted by a charter commission under this chapter has
3 no legal effect upon the status of either the borough concerned or a
4 city within the borough.

5 **Sec. 29.85.160. ASSETS AND LIABILITIES.** (a) When two or more
6 municipalities merge, one municipality succeeds to the rights, powers,
7 duties, assets and liabilities of the others.

8 (b) When two or more municipalities consolidate, the newly-incor-
9 porated municipality succeeds to the rights, powers, duties, assets
10 and liabilities of the consolidated municipalities.

11 **Sec. 29.85.170. ORDINANCES.** The ordinances, resolutions, rules,
12 regulations, procedures and orders of the former municipalities remain
13 in force within their respective territories until superseded by the
14 action of the merged or consolidated municipality.

15 **Sec. 29.85.180. EFFECT OF CHARTER AFTER RATIFICATION.** Upon
16 taking effect, the charter of the merged or consolidated municipality
17 operates to dissolve a borough or each first class and each home rule
18 city within the area in accordance with the provisions of the charter.
19 The municipality, by whatever name it is called, shall have all the
20 powers which a home rule municipality may have under the state consti-
21 tution and the charter and ordinances adopted under the charter.

22 **Sec. 29.85.190. BOROUGH RIGHT TO STATE AND FEDERAL AID PRESERVED.**
23 All provisions of law authorizing contributions of any kind, in money
24 or otherwise, from the state or federal government to boroughs and
25 cities shall remain in full force and effect with respect to the merged
26 or consolidated municipality.

27 **Sec. 29.85.200. APPLICABILITY OF CHAPTER.** This chapter estab-
28 lishes an alternative to methods authorized under other provisions of
29 law or charter for dissolution, merger or consolidation of cities and

1 boroughs and adoption of home rule charters by organized boroughs or
2 by first class and home rule cities.

3 Sec. 29.05.210. MERGER AND CONSOLIDATION. (a) "Merger" means
4 dissolution of a municipality and its absorption by another municipa-
5 lity.

6 (b) "Consolidation" means dissolution of two or more municipal-
7 ities and their incorporation as a new municipality.

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

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