

Introduced: 2/27/67
Referred: Local Govern-
ment

1 IN THE HOUSE

BY SMITH

2 HOUSE BILL NO. 243

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the effect of assumption of area-
7 wide sanitary sewer power by an organized borough."

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

9 * Section 1. AS 07.15 is amended by adding a new section to read:

10 Sec. 07.15.400. SANITARY SEWERS. (a) When a first or second
11 class borough acquires the areawide sanitary sewer power, the first
12 and second class borough shall succeed to all the rights, powers, func-
13 tions, claims, franchises, contractual obligations, liabilities, privi-
14 leges, immunities and real and personal property of each city within
15 the borough consisting of the city's sanitary sewerage system in the
16 manner and method provided in this section.

17 (b) The sanitary sewer powers and functions exercised by a city
18 which are succeeded to by a borough shall continue to be exercised by
19 the city until such time as the borough exercises the areawide sanitary
20 sewer powers and function, which time may not exceed one year after the
21 borough has acquired the areawide power. The borough shall make written
22 notice of its exercise of the powers, functions, duties and other items
23 enumerated in (a) of this section to each city concerned at least 30 days
24 prior to the exercise of the areawide power. After acquisition of the
25 areawide sanitary sewer power, the borough officials shall consult with
26 officials of each city concerned and arrange for an orderly transfer of
27 the sanitary sewerage system to the borough. Upon the exercise of the
28 areawide sanitary sewer power, the borough shall succeed to and assume
29 all of the items set forth in (a) of this section without the necessity

1 of any transfers or conveyances.

2 (c) Upon exercise of the areawide sanitary sewer power, the bor-
3 ough shall succeed to the real and personal property of each city solely
4 used and useful in the operation of the city's sanitary sewerage system,
5 except where the property is used in part by the city for purposes other
6 than the operation of the sanitary sewerage system. The borough shall
7 succeed to all right, title and interest of a city in any fee, easement
8 or right of way obtained from third persons by the city exclusively for
9 the use and maintenance of the city sanitary sewerage system. The bor-
10 ough shall have the right to exercise any other right the city may have
11 acquired from third persons for the use of the city's sanitary sewerage
12 system. The borough shall have the same right as public utilities have
13 to use the city streets and other public rights of way.

14 (d) When a city has previously incurred bonded indebtedness for
15 all or any part of a sanitary sewerage system, all the property within
16 the city at the time the bonds were issued shall remain subject to taxa-
17 tion to pay the principal of and interest on the bonds for as long as
18 they remain outstanding. Upon exercise of the areawide sanitary sewer
19 power, the borough shall succeed to all bonded indebtedness, including
20 bond anticipation notes and refunding bonds, of the city concerning the
21 sanitary sewerage systems of the city. A bondholder of a municipal
22 sanitary sewer bond, or other bond concerning public improvements
23 used for sanitary sewer and sewerage purposes, may commence an action
24 in superior court for such equitable relief, including apportionment
25 of any sewer indebtedness between a city and the borough, to secure
26 the rights of the bondholders and other bondholders similarly situated
27 as provided in the bond ordinances and agreements. The bondholders
28 shall waive any objections or defenses to the succession of the borough
29 to the bonded indebtedness and agreements, unless such action is filed

1 within six months after the borough has acquired the areawide sanitary
2 sewer power.

3 (e) Any ordinance, rule, regulation, procedure and order of any
4 city concerning its sanitary sewer powers and functions in effect prior
5 to the exercise of the areawide sanitary sewer power by the borough
6 remains in effect until superseded by the action of the borough.

7 (f) All civil causes of action and all criminal offenses which
8 shall have arisen or have been committed prior to the date of the exer-
9 cise of the areawide sewer power by the borough concerning a city's
10 sanitary sewer powers and functions shall be subject to prosecution by
11 the borough after the exercise of the areawide sanitary sewer power in
12 the appropriate court to the same extent and with the right of appellate
13 review as if the borough had been created and established prior to the
14 accrual of the causes of action or the commission of such offenses. A
15 city may prosecute all violations of any existing ordinances or lawful
16 rules and regulations concerning its sewer powers and functions, until
17 the borough shall have exercised its areawide sanitary sewer power.

18 (g) Upon the exercise of the areawide sanitary sewer power by the
19 borough, the borough shall succeed to all tax revenues budgeted or
20 levied by each city for the operation, maintenance, debt service and
21 other expenses of the cities in owning, operating and maintaining the
22 cities' sanitary sewerage systems, except for the amounts spent or to
23 be spent by the cities prior to the borough exercise of the areawide
24 sewer power. Upon the acquisition by the borough of the areawide
25 sanitary sewer power, each city shall be prohibited from adopting a
26 budget which does not provide sufficient revenues for the expenses of
27 the operation, maintenance and debt service of the city's sanitary
28 sewerage system until the areawide sewer power is exercised and each
29 city shall provide the necessary revenues to meet the expenses.

1 (h) After the acquisition of the areawide sanitary sewer power
2 by a borough, a city is prohibited from assuming any bonded indebted-
3 ness, making any contract, or transferring any assets, involving all
4 or any part of the city's sanitary sewerage system, without the consent
5 of the borough assembly.

6 (i) Upon the exercise of the areawide sanitary sewer power, the
7 borough may assess, levy and collect all local improvement assessments
8 and other assessments for all or any part of a city's sanitary sewer
9 system in the same manner and method as did the city.

10 (j) In the event a conflict exists between the borough areawide
11 first class city sanitary sewer powers and the sanitary sewer powers
12 of the city to which the borough succeeded, the borough may exercise
13 the greater power to the extent that power was actually exercised by
14 the city at the time the borough exercised the areawide sanitary sewer
15 power.