

Original sponsor: Rules/Governor

Offered: 4/27/79  
Referred: Rules

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2

HOUSE CS FOR CS FOR SENATE BILL NO. 137

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the municipal code; and providing  
7 for an effective date."

8

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

9

\* Section 1. AS 29.23 is amended by adding new sections to read:

10

Sec. 29.23.021. ASSEMBLY COMPOSITION AND APPORTIONMENT. (a)

11

Assembly composition and apportionment shall be consistent with the  
12 equal representation standards of the Constitution of the United States.

13

(b) The assembly of a newly incorporated borough is, after incor-  
14 poration and until the adoption of an ordinance providing for a change  
15 in composition or apportionment, composed of the number of members and  
16 apportioned as set out in the incorporation petition approved by the  
17 voters. If a borough is already incorporated, the assembly shall be  
18 composed and apportioned in a manner that is consistent with AS 29.23.-  
19 023 and prescribed by charter or ordinance.

20

(c) An assembly may not provide for weighted voting.

21

Sec. 29.23.023. COMPOSITION AND REPRESENTATION REQUIREMENTS FOR

22

GENERAL LAW BOROUGHES. (a) The assembly of a general law borough may  
23 not be composed of more than 11 members.

24

(b) The borough assembly shall provide for its composition and for  
25 the form of its representation. Not later than July 31, 1981, and  
26 thereafter within four months after the report of a federal decennial  
27 census, the assembly shall propose and submit to the voters at a regular  
28 election or special election called for the purpose alternative forms of  
29 representation by which members are

1 (1) elected at large by all qualified voters of the borough;  
2 (2) elected at large by all qualified voters of the borough,  
3 but required to live within an election district or zone established by  
4 the borough for election of assembly members, with each district or zone  
5 being of substantially equal population; or

6 (3) elected by and from election districts or zones estab-  
7 lished by the borough for the election of borough assembly members.

8 (c) The borough assembly shall, within three months of the certifi-  
9 cation of the results of the election held in accordance with (b) of  
10 this section, adopt an ordinance providing for its composition and the  
11 form of representation which conforms to the form of representation  
12 receiving a plurality of the votes at that election.

13 (d) A member of the assembly of a general law borough may not be  
14 elected or appointed by and from the council of a city in the borough.

15 Sec. 29.23.025. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a)  
16 Not later than July 31, 1981, and, thereafter, within four months after  
17 the official report of a federal decennial census, the assembly shall  
18 determine and declare by resolution if the existing apportionment of the  
19 assembly meets the applicable standards of AS 29.23.021 - 29.23.023.

20 (b) If the existing apportionment of the assembly does not meet  
21 the applicable standards of AS 29.23.021 - 29.23.023, the assembly shall  
22 provide by ordinance for its reapportionment. At the same time, the  
23 assembly may change the composition of the assembly.

24 (c) In addition to providing for apportionment at the times re-  
25 quired under (b) of this section, the borough assembly shall provide by  
26 ordinance for its reapportionment and may provide for a change in its  
27 composition whenever it determines, on the basis of federal census  
28 reports or other reliable population data, that the existing apportion-  
29 ment does not meet the standards for apportionment in AS 29.23.021. If

1 a petition signed by not less than 50 borough voters requests the  
2 assembly to determine whether the existing apportionment meets the  
3 standards for apportionment in AS 29.23.021, and the petition contains  
4 evidence that the existing apportionment does not meet those standards,  
5 the assembly shall make the determination requested.

6 (d) An ordinance adopted by the assembly under (b) or (c) of this  
7 section shall be submitted to the voters for approval. In order for the  
8 ordinance to be approved it must receive the approval of a majority of  
9 the votes cast.

10 (e) Within four months of a determination by the assembly that the  
11 current apportionment does not meet the standards of AS 29.23.021 -  
12 29.23.025; the assembly shall adopt an ordinance providing for reappor-  
13 tionment, and submit the ordinance to the voters. If, at the end of the  
14 four month time period, an ordinance providing for reapportionment has  
15 not been approved, the Department of Community and Regional Affairs  
16 shall provide for the reapportionment in accordance with the standards  
17 of AS 29.23.021 - 29.23.023.

18 (f) A reapportionment ordinance, or a determination of the borough  
19 assembly that applicable standards do not require adoption of a change  
20 in apportionment, is subject to judicial review.

21 (g) A change in assembly apportionment or composition under this  
22 section is effective beginning with the first regular election for  
23 members of the assembly which follows approval of a reapportionment  
24 ordinance.

25 \* Sec. 2. AS 29.13.100(3) is repealed and re-enacted to read:

26 (3) AS 29.23.021; 29.23.025 - 29.23.050 (composition and  
27 apportionment of borough assembly; borough assembly recomposition and  
28 reapportionment; assembly representation)

29 \* Sec. 3. AS 29.18.050(4) is amended to read:

1 (4) composition and apportionment of the assembly or council,  
2 but the number of members of a borough assembly may not exceed 11;

3 \* Sec. 4. AS 29.23.040 is amended to read:

4 Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected  
5 for three-year terms and until their successors are selected and have  
6 qualified, unless different terms not exceeding four years are pre-  
7 scribed by borough charter or ordinance. The regular term of office  
8 begins on the first Monday following certification of the election.

9 [HOWEVER, IF UNDER A BOROUGH APPORTIONMENT CITY COUNCILMEN ARE APPOINTED  
10 AS ASSEMBLYMEN OR ELECTED TO DUAL ASSEMBLY-COUNCIL SEATS, THEY MAY NOT  
11 BE REPLACED UNTIL THEIR ASSEMBLY TERM EXPIRES AS PROVIDED BY CITY CHAR-  
12 TER OR ORDINANCE, OR THEY CEASE TO BE A MEMBER OF EITHER THE ASSEMBLY OR  
13 COUNCIL.] The current term of incumbent assemblymen may not be altered  
14 under this section. This section applies to home rule and general law  
15 boroughs.

16 \* Sec. 5. AS 29.23.130(c) is amended to read:

17 (c) The borough mayor's regular term of office is three years and  
18 until a successor is elected and has qualified and begins on the first  
19 Monday following certification of the mayor's [HIS] election [, WHICH IS  
20 HELD THE FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT DATE OF ELECTION  
21 IS PROVIDED BY ORDINANCE]. The assembly may provide by ordinance for a  
22 different term not to exceed four years, except that the current term of  
23 an incumbent borough mayor may not be altered.

24 \* Sec. 6. AS 29.23.130(d) is amended to read:

25 (d) A borough may adopt or abandon a manager plan at any time, as  
26 provided in AS 29.23.410 - 29.23.480. The borough mayor may not veto an  
27 ordinance or resolution calling for an election on this question. The  
28 manager has all the powers and duties of the borough mayor as chief  
29 administrative officer. [IF THE MANAGER PLAN IS ADOPTED, IT BECOMES

1 EFFECTIVE FOLLOWING CERTIFICATION OF THE RESULTS OF THE FIRST REGULAR  
2 ELECTION OCCURRING AT LEAST SIX MONTHS AFTER ADOPTION OF THE PLAN.] The  
3 borough mayor then serves as borough executive.

4 \* Sec. 7. AS 29.23.200(c) is amended to read:

5 (c) Councilmen are selected [AN ELECTION IS HELD ANNUALLY ON THE  
6 FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT ELECTION DATE OR INTERVAL  
7 OF YEARS IS PROVIDED BY ORDINANCE, TO CHOOSE COUNCILMEN] for three-year  
8 terms and until their successors are elected and have qualified. The  
9 regular term of office begins on the first Monday following certifica-  
10 tion of the election. The council may provide by ordinance for differ-  
11 ent terms not to exceed four years, except that the current term of  
12 incumbent councilmen may not be altered.

13 \* Sec. 8. AS 29.23.210(a) is amended to read:

14 (a) The council shall meet at least once every month, unless  
15 otherwise provided by ordinance. Special meetings may be held on the  
16 call of the mayor or two councilmen upon not less than 24 hours written  
17 or oral notice communicated to each member. In an emergency, a special  
18 meeting called on less than 24 hours notice is a legal meeting if all  
19 members are present or there is a quorum and all absent members have  
20 waived in writing the required notice. A waiver may be made either  
21 before or after the time of the meeting. The waiver shall be attached  
22 to and made a part of the journal for that meeting.

23 \* Sec. 9. AS 29.23.250(c) is amended to read:

24 (c) The mayor of a second class city is elected by and from the  
25 council for a term of one year and until a successor is elected and  
26 has qualified [EQUAL IN LENGTH TO A COUNCILMAN'S TERM].

27 \* Sec. 10. AS 29.23.250(d) is amended to read:

28 (d) The mayor's regular term begins on the first Monday following  
29 certification of the mayor's [HIS] election [, WHICH IS HELD ON THE

1 FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT DATE OF ELECTION IS PRO-  
2 VIDED BY ORDINANCE]. The council of a second class city shall meet on  
3 the first Monday after certification of the regular election [DATE] and  
4 elect a mayor who takes office immediately.

5 \* Sec. 11. AS 29.23.440(a) is amended to read:

6 (a) If the manager plan is approved, the assembly or council  
7 shall, within 60 days, adopt the plan by ordinance or resolution.

8 \* Sec. 12. AS 29.33.010(b) is amended to read:

9 (b) No city, whether home rule or not, may exercise an areawide  
10 power [CONFERRED IN, OR ASSUMED BY MEANS OF AS 29.33.250 - 29.33.290]  
11 once that power is being exercised by a borough.

12 \* Sec. 13. AS 29.33.070(b)(2) and (3) are amended to read:

13 (2) delegate other planning and zoning powers conferred by  
14 this chapter [ADMINISTRATIVE AND ENFORCEMENT RESPONSIBILITIES] to a  
15 [THE] city within the borough [, PROVIDED THAT BOROUGH JURISDICTION IS  
16 NOT IMPAIRED];

17 (3) revoke or modify any part or all of the [WITHDRAW] powers  
18 delegated under this subsection.

19 \* Sec. 14. AS 29.33.110(a) is repealed and re-enacted to read:

20 (a) The assembly is the board of adjustment but may delegate by  
21 resolution or ordinance part or all of its functions to a city within  
22 the borough for the area within city boundaries in accordance with  
23 AS 29.33.070(b)(1), in addition to making delegations as provided for an  
24 assembly under AS 29.33.245. Meetings of the borough board are held at  
25 the call of the presiding officer and of the city board by the mayor.  
26 The presiding officer or mayor may administer oaths and compel atten-  
27 dance of witnesses. Meetings and hearings of the board shall be open to  
28 the public and the board shall keep minutes of its proceedings as a  
29 public record.

1 \* Sec. 15. AS 29.33.190(a) is amended to read:

2 (a) The owner or agent of the owner of land located within a  
3 subdivision who transfers, sells, or enters into a contract to sell land  
4 in a subdivision before a plat of the subdivision has been prepared,  
5 approved, and recorded, is guilty of a misdemeanor and upon conviction  
6 is punishable by a fine of not more than \$500 for each lot or parcel  
7 transferred, sold, or included in a contract to be sold. The borough  
8 [PLATTING BOARD] may enjoin a transfer, sale, or contract to sell, and  
9 may recover the penalty by appropriate legal action.

10 \* Sec. 16. AS 29.48.180(a) is amended to read:

11 (a) Each ordinance [AND RESOLUTION] after adoption shall be codi-  
12 fied.

13 \* Sec. 17. AS 29.48.180(c)(2) is amended to read:

14 (2) the ordinance is a provision which establishes a rule of  
15 conduct or behavior and which is included, or to be included, in a code  
16 of ordinances or other complete system of [POSITIVE] law enacted [PRO-  
17 MULGATED BY THE COUNCIL] and kept current [BY THE CITY] at reasonable  
18 intervals.

19 \* Sec. 18. AS 29.48 is amended by adding a new section to read:

20 Sec. 29.48.185. RESOLUTIONS. The assembly or council shall pro-  
21 vide for the maintenance of a permanent file of resolutions that have  
22 been adopted.

23 \* Sec. 19. AS 29.48.200 is amended to read:

24 Sec. 29.48.200. PENALTIES. For the violation of an ordinance, the  
25 assembly or council may prescribe punishment not to exceed a fine of  
26 \$500 or imprisonment for 30 days, or both. However, the punishment  
27 authorized under this section may be imposed only if [AN ORDINANCE IS  
28 CODIFIED AND] copies of the ordinance are made available for distri-  
29 bution to the public at cost.

1 \* Sec. 20. AS 29.58.200 is amended by adding a new subsection to read:

2 (b) A municipality may issue its revenue bonds to finance the  
3 purchase of residential mortgage loans. The revenue bonds issued under  
4 this subsection are payable solely from the principal and interest of  
5 the mortgage loans and from any other amounts pledged by the municipal-  
6 ity, except the pledge of revenues derived from taxes. Revenue bonds  
7 issued under this subsection do not constitute a general obligation of  
8 the municipality.

9 \* Sec. 21. AS 29.58.210 is amended to read:

10 Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall  
11 fix the date of the bonds, denominations, maturities, rate or rates of  
12 interest, place and manner of payment, redemption terms, registration  
13 privileges, manner of execution, [AND] signatures required, and other  
14 details of the bonds. If an officer whose signature appears on the  
15 bonds or coupons ceases to be an officer before delivery of the bonds,  
16 his signature is valid as if he had remained in office until delivery.

17 \* Sec. 22. AS 29.58.220 is amended to read:

18 Sec. 29.58.220. PAYMENT. Bonds issued under AS 29.58.200 -  
19 29.58.220 or the proceedings of the assembly or council authorizing  
20 their issuance may contain the covenants which the assembly or council  
21 considers advisable concerning

22 (1) the rates or fees to be charged for services rendered by  
23 the public facilities, the revenue of which is pledged to the payment of  
24 the bonds, or the terms and conditions of any other amounts collected  
25 which are pledged to the payment of the bonds;

26 (2) the deposit and use of the revenue of the public facili-  
27 ties or of other amounts collected which are pledged to the payment of  
28 the bonds;

29 (3) the issuance of additional bonds payable from revenue of

1 the public facilities or of other amounts collected which are pledged  
2 to the payment of the bonds;

3 (4) the rights of the bondholders in case of default in the  
4 payment of the principal or interest on the bonds, including the appoint-  
5 ment of a receiver to operate the public facilities;

6 (5) other covenants as the assembly or council determines."

7 \* Sec. 23. AS 29.63.065(b)(2) is amended to read:

8 (2) a claimant receiving the exemption must file with the  
9 department by March [JANUARY] 15 of each subsequent year a separate  
10 application proving eligibility as of January 1 in order to retain the  
11 exemption. Within the same year the department [THE ASSEMBLY OR COUNCIL]  
12 for good cause shown may waive the claimant's failure to make timely  
13 application and approve the application as if timely filed.

14 \* Sec. 24. AS 29.23.020 is repealed.

15 \* Sec. 25. AS 29.59 is repealed.

16 \* Sec. 26. Notwithstanding AS 29.23.040, amended by sec. 4 of this Act,  
17 the terms of office of borough assemblymen elected or appointed to dual  
18 borough assembly - city council seats are not affected by the amendment made  
19 to AS 29.25.040 in sec. 4 of this Act until reapportionment of the borough  
20 assembly is required or proposed under AS 29.23.020, repealed by sec. 21 of  
21 this Act, or is effected as required or proposed under AS 29.23.021 - 29.23.-  
22 025, added by sec. 1 of this Act.

23 \* Sec. 27. Sections 1 - 3 and 24 of this Act take effect January 1, 1981.  
24 Sections 4 - 23, 25 and 26 of this Act take effect immediately in accordance  
25 with AS 01.10.070(c).