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Referred: Community & Regional
Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for the
Community and Regional Affairs
Committee Interim Joint Local
Government Study)

1 IN THE SENATE

2 SENATE BILL NO. 348

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing unorganized boroughs, amending the
7 responsibilities of state agencies for state programs
8 and services for residents of organized and unorganized
9 boroughs, and authorizing adoption of home rule char-
10 ters by unorganized boroughs; and providing for an
11 effective date."

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

13 * Section 1. PURPOSE. The purpose of this Act is to provide for the
14 division of the state's single unorganized borough into unorganized boroughs
15 to accommodate the delivery of services and programs by state agencies within
16 common boundaries and to require the collection of data and information about
17 state programs with reference to a set of boundaries adopted for use by all
18 state agencies for the purpose of improving the delivery of state services
19 and encouraging the development of regional responsibilities for the planning
20 and implementation of these services.

21 * Sec. 2. AS 29.03 is amended by adding new sections to read:

22 Sec. 29.03.011. ESTABLISHMENT OF UNORGANIZED BOROUGHES. Except as
23 the boundaries are adjusted as provided in AS 29.03.021, the geographic
24 area within each regional educational attendance area established under
25 AS 14.08.031 is, effective 120 days after the effective date of this
26 Act, established as an unorganized borough.

27 Sec. 29.03.021. ADJUSTMENT OF BOUNDARIES BY COMMISSIONER. The
28 commissioner may, after public hearings in the areas affected, establish
29 boundaries other than the boundaries of a regional educational attend-

1 ance area for an unorganized borough under AS 29.03.011. In making
2 adjustments, the commissioner shall consider the standards applicable to
3 the incorporation of boroughs under AS 29.18.030 and the regional boun-
4 daries adopted by the Native regional corporations established under the
5 Alaska Native Claims Settlement Act. The commissioner may not establish
6 boundaries for an unorganized borough which include territory within
7 more than one Native regional corporation established under the Alaska
8 Native Claims Settlement Act unless the inclusion of the territory is
9 reasonably necessary for the efficient administration of programs and
10 services by state agencies.

11 * Sec. 3. AS 44.17 is amended by adding new sections to read:

12 ARTICLE 2. COLLECTION OF DATA AND INFORMATION
13 ABOUT STATE SERVICES IN DISTRICTS.

14 Sec. 44.17.100. DISTRICTS. Each of the following is a district of
15 the state:

16 (1) a borough or unified municipality incorporated under
17 AS 29; and

18 (2) an unorganized borough determined under AS 29.03.011 -
19 29.03.021.

20 Sec. 44.17.110. DATA AND INFORMATION. Each state agency, in-
21 cluding a board or commission assigned to an agency for administrative
22 purposes, shall provide for the administration of the programs for which
23 it is responsible on the basis of districts designated in AS 44.17.100
24 by

25 (1) collecting data, processing and analyzing statistics, and
26 providing information about programs on the basis of each of the dis-
27 tricts;

28 (2) developing program planning for districts;

29 (3) coordinating program planning for agency activities with

1 the plans and activities of other agencies, municipalities, and federal
2 departments and agencies in each district; and

3 (4) providing information to the governor, legislature and
4 the public for use in the preparation and consideration of the state
5 budget and other legislation bearing on the provision of state services
6 in each district.

7 Sec. 44.17.120. EXEMPTIONS AND MODIFICATIONS. (a) An exemption
8 from AS 44.17.110 may be granted by the legislature to an agency if
9 conformity would cause undue expense, hardship, or decreased efficiency
10 in the development and operation of an agency program. The agency
11 requesting the exemption shall submit to the Legislative Council

12 (1) a written statement naming the program for which the
13 exemption is sought and explaining the reasons for seeking the exemp-
14 tion; and

15 (2) an evaluation of the practicality of conforming to AS 44.-
16 17.110 within a five-year period.

17 (b) The boundaries of a district may be modified by the legisla-
18 ture if the requirements of conformity to the boundaries as set out in
19 AS 44.17.100 would be detrimental to the accomplishment of the objec-
20 tives of an agency program. An agency requesting modification of the
21 boundaries shall submit to the Legislative Council

22 (1) a statement naming the program for which modification of
23 district boundaries is requested and the reasons for seeking a modifica-
24 tion;

25 (2) a map depicting the revised boundaries which will be used
26 if a modification of boundaries is granted; and

27 (3) an evaluation of the likelihood of conforming to the
28 boundaries established in AS 44.17.100 within a five-year period.

29 * Sec. 4. AS 29 is amended by adding a new chapter to read:

1 CHAPTER 19. DIRECT INCORPORATION OF A HOME RULE BOROUGH.

2 Sec. 29.19.010. INCORPORATION. (a) The residents of an unorgan-
3 ized borough established in accordance with AS 29.03.011 - 29.03.021 may
4 apply for the incorporation of a home rule borough. The petition for
5 borough incorporation shall be filed with the Department of Community
6 and Regional Affairs and shall include the information and signatures
7 required by AS 29.18.050. Petitions for incorporation filed under this
8 section shall be processed, reviewed and determined in accordance with
9 AS 29.18.060 - 29.18.090.

10 (b) The standards applicable to the incorporation of an organized
11 borough under art. X, sec. 3 of the state constitution and AS 29.18.030
12 apply to the incorporation of an organized borough under this section.

13 Sec. 29.19.020. CHARTER ELECTION. If the Local Boundary Commis-
14 sion accepts the petition filed under AS 29.19.010, it shall immediately
15 notify the lieutenant governor. Within 30 days after notification, the
16 lieutenant governor shall order an election within the proposed home
17 rule borough to determine whether the voters will elect a charter com-
18 mission of 11 members, and to determine the persons elected to serve on
19 the charter commission. The lieutenant governor shall provide not less
20 than 20 or more than 30 days during which candidates for the charter
21 commission may present nominating petitions. The election on the
22 question of election of a charter commission and the determination of
23 persons elected to serve on the charter commission shall be held not
24 less than 60 or more than 75 days after the date of the election order.

25 Sec. 29.19.030. PREPARATION OF CHARTER. (a) If, at the election
26 called by the lieutenant governor under AS 29.19.020, a majority of the
27 voters favors election of a charter commission, the 11 persons receiving
28 the highest number of votes cast at that election constitutes the char-
29 ter commission. The charter commission shall prepare a proposed charter

1 and submit it to the Department of Community and Regional Affairs within
2 one year of the first meeting of the charter commission. The commis-
3 sioner of community and regional affairs shall review the proposed
4 charter for compliance with laws applicable to home rule municipalities
5 and, if it complies, request the lieutenant governor to submit the
6 proposed borough incorporation petition and proposed home rule charter
7 to residents of the proposed home rule borough. If the proposed charter
8 does not comply with law, the commissioner shall return the proposed
9 charter to the charter commission with a statement of the legal defi-
10 ciencies.

11 (b) Within 90 days of the receipt of comments from the commis-
12 sioner of community and regional affairs with respect to provisions of a
13 proposed home rule charter which are not in compliance with the laws
14 applicable to home rule municipalities, the charter commission may
15 prepare and submit to the commissioner an amended charter which meets
16 the objections in the original proposed charter.

17 (c) Only one original and one amended charter may be submitted to
18 the commissioner of community and regional affairs under this section.

19 Sec. 29.19.040. RATIFICATION OF CHARTER. The lieutenant governor
20 shall order an election on the question of whether the area shall be
21 incorporated as a home rule borough in accordance with the charter
22 approved by the commissioner of community and regional affairs. The
23 proposed charter shall be posted throughout the proposed borough by the
24 lieutenant governor before the election is held. The election shall be
25 held not less than 60 or more than 90 days following the election order.

26 Sec. 29.19.050. RESULTS OF RATIFICATION ELECTION. (a) If a
27 majority of the votes cast by the qualified voters of the proposed
28 borough is against the incorporation of a borough under the proposed
29 home rule charter, the proposal is defeated.

1 (b) If a majority of the votes cast by the qualified voters of the
2 proposed borough favors incorporation of the borough under the proposed
3 home rule charter, the lieutenant governor shall declare that the un-
4 organized borough in which the election was held is incorporated as an
5 organized borough and a municipal corporation in accordance with the
6 provisions of the home rule charter. The lieutenant governor shall
7 provide for the election of the officers provided for in the charter.

8 (c) The election and qualification of officers under (b) of this
9 section shall be completed by the lieutenant governor in accordance with
10 AS 29.18.120 and the provisions of the home rule charter of the borough.

11 Sec. 29.19.060. VOTERS, ELECTIONS AND COSTS. (a) A person is
12 qualified to vote in an election authorized by AS 29.19.010 - 29.19.060
13 if he is qualified to vote in state elections and if he is a resident of
14 the unorganized borough proposed for incorporation as a home rule
15 borough.

16 (b) The lieutenant governor shall conduct elections authorized by
17 AS 29.19.010 - 29.19.050 substantially in the manner provided in the
18 Alaska Election Code (AS 15.05 - 15.60), and shall certify the results
19 of all elections under this chapter. Costs of elections under this
20 chapter shall be paid by the office of the lieutenant governor.

21 (c) Costs of charter preparation under this chapter shall
22 be paid by the Department of Community and Regional Affairs.

23 Sec. 29.19.070. APPLICABILITY OF GENERAL TRANSITIONAL PROVISIONS.
24 The provisions of AS 29.18.130 - 29.18.180 apply to home rule boroughs
25 incorporated under this chapter.

26 * Sec. 5. AS 29.03.010 and 29.03.020 are repealed.

27 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).