

Offered: 4/21/86
Referred: Judiciary

Original sponsors: Koponen, Hurley
and Marrou

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 325 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to home rule municipalities, author-
8 izing the incorporation of town meeting home rule
9 cities; and providing for an effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 04.11.090(e) is amended to read:
12 (e) A holder of a beverage dispensary license may not maintain
13 upon the licensed premises more than one room in which there is regu-
14 larly maintained a fixed counter or service bar at which alcoholic
15 beverages are sold or served to members of the public for consumption
16 unless the holder of a beverage dispensary license [HE] is issued by
17 the board, after investigation, a duplicate of the original license
18 for each of the rooms. The holder of the beverage dispensary license
19 shall pay to the board with each application for a duplicate license
20 an amount equal to the fee payable for the original beverage dispen-
21 sary license under (b) of this section. If the licensed premises are
22 located within a municipality, a duplicate beverage dispensary license
23 may not be issued unless approved by the local governing body [COUNCIL
24 OR ASSEMBLY, AS APPROPRIATE].
25 * Sec. 2. AS 04.21.080(b)(10) is amended to read:
26 (10) "local governing body" means, as appropriate, a city
27 council, a borough assembly, the voters of a town meeting home rule
28 city acting in a town council meeting, or a traditional village coun-
29 cil, but does not include a corporation established under the Alaska
Native Claims Settlement Act;

1 * Sec. 3. AS 08.60.060 is amended to read:

2 Sec. 08.60.060. CERTIFICATE OF LOCATION. A person using or
3 proposing to use a location for a commercial or public junk yard must
4 obtain a certificate of approval for the location. If the location is
5 in a city of any class, the certificate shall be procured from the
6 governing body [CITY COUNCIL] or its designee. If the location is
7 outside the city limits but within the boundaries of an organized
8 borough, the certificate shall be procured from the assembly of the
9 organized borough or its designee. If the location is outside an
10 incorporated city or borough, the certificate of location shall be
11 obtained from the commissioner of public safety.

12 * Sec. 4. AS 08.60.070 is amended to read:

13 Sec. 08.60.070. STANDARDS FOR LOCATION AND REGULATION. The
14 commissioner of public safety and the governing body of a municipality
15 [, THE CITY COUNCIL, AND ORGANIZED BOROUGH ASSEMBLY], in considering
16 applications and regulations, shall take into account

17 (1) the nature and development of surrounding property;

18 (2) the need to protect the local economy, adjacent land
19 owners, and the motoring public from economically depressing and
20 unsightly roadside locations;

21 (3) the proximity of churches, schools, hospitals, public
22 buildings, recreation areas, or other places of public gathering;

23 (4) the sufficiency in number of other similar business
24 establishments in the vicinity;

25 (5) the adequacy of fences and other types of enclosures to
26 prevent the unsightly display of a junk yard;

27 (6) the health, safety, and general welfare of the public;

28 (7) the suitability of the applicant to establish, main-
29 tain, or operate the business under AS 08.60.050 - 08.60.100.

1 * Sec. 5. AS 14.12.010 is amended to read:

2 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
3 districts of the state public school system are as follows:

4 (1) each representative home rule city and each first class
5 city in the unorganized borough is a city school district;

6 (2) each organized borough is a borough school district;

7 (3) the area outside organized boroughs and outside first
8 class cities is divided into regional educational attendance areas.

9 * Sec. 6. AS 29.05.010(b) is amended to read:

10 (b) A community that meets all the standards under (a)(2) - (4)
11 [(a)] of this section [EXCEPT (a)(1)] may incorporate as a second
12 class city or as a town meeting home rule city.

13 * Sec. 7. AS 29.05.060 is amended to read:

14 Sec. 29.05.060. PETITION. Municipal incorporation is proposed
15 by filing a petition with the department. The petition shall include
16 the following information about the proposed municipality:

17 (1) class;

18 (2) name;

19 (3) boundaries;

20 (4) maps, documents, and other information required by the
21 department;

22 (5) unless the proposed municipality is a town meeting home
23 rule city, composition and apportionment of the governing body;

24 (6) a proposed operating budget for the municipality pro-
25 jecting sources of income and items of expenditure through the first
26 full fiscal year of operation;

27 (7) for a borough, based on the number who voted in the
28 respective areas in the last general election, the signature and
29 resident address of 15 percent of the voters in

1 (A) home rule and first class cities in the area of
2 the proposed borough; and

3 (B) the area of the proposed borough outside home rule
4 and first class cities;

5 (8) for a first class borough, a designation of areawide
6 powers to be exercised;

7 (9) for a second class borough, a designation of areawide
8 and nonareawide powers to be exercised;

9 (10) for a first or second class city, a designation of the
10 powers to be exercised;

11 (11) for a first class city, based on the number who voted
12 in the area in the last general election, the signatures and resident
13 addresses of 50 voters in the proposed city or of 15 percent of the
14 voters in the proposed city, whichever is greater;

15 (12) for a town meeting home rule city or a second class
16 city, based on the number who voted in the area in the last general
17 election, the signatures and resident addresses of 25 voters in the
18 proposed city or of 15 percent of the voters in the proposed city,
19 whichever is greater;

20 (13) for a home rule borough, a proposed home rule charter;

21 (14) for a town meeting home rule city, a proposed home rule
22 charter.

23 * Sec. 8. AS 29.05.110(d) is amended to read:

24 (d) A home rule charter included in an incorporation petition
25 under AS 29.05.060(13) or (14) is considered to be part of the incor-
26 poration question. The home rule charter is adopted if the voters
27 approve incorporation of the borough or incorporation of the town
28 meeting home rule city.

29 * Sec. 9. AS 29.10.010(b) is amended to read:

1 (b) A second class city may adopt a charter for its own govern-
2 ment as a town meeting home rule city. A second class city that
3 exceeds 35 square miles in area may adopt a charter for its own
4 government as a representative home rule city if the department deter-
5 mines from the best figures available that the population of the city
6 is at least 3,500 permanent residents.

7 * Sec. 10. AS 29.10.010(f) is amended to read:

8 (f) The proposed charter for an area of the unorganized borough
9 shall be prepared by the petitioners and filed under AS 29.05.060 with
10 the petition to incorporate a home rule borough. The proposed charter
11 for an unincorporated community shall be prepared by the petitioners
12 and filed under AS 29.05.060 with the petition to incorporate a town
13 meeting home rule city.

14 * Sec. 11. AS 29.10.020 is amended by adding a new subsection to read:

15 (b) The department shall prepare at least one model home rule
16 charter for a town meeting home rule city. The model charter shall be
17 made available to persons interested in filing a petition to incorpo-
18 rate a town meeting home rule city under AS 29.05.060.

19 * Sec. 12. AS 29.10 is amended by adding a new section to read:

20 Sec. 29.10.035. CHARTERS FOR TOWN MEETING HOME RULE CITIES. A
21 town meeting home rule city shall be governed as a direct democracy
22 through town council meetings. Any voter of the town meeting home
23 rule city may vote at town council meetings. In addition to other
24 requirements for a home rule charter, the charter of a town meeting
25 home rule city shall provide for

26 (1) regular town council meetings to be held at least once
27 each year;

28 (2) a procedure for calling a special town council meeting
29 by the voters;

1 (3) the preparation of an agenda for each town council
2 meeting, including a procedure to enable any voter to insert an item
3 into the agenda;

4 (4) the election and term of office of a mayor to preside
5 over town council meetings;

6 (5) procedures for conducting town council meetings, in-
7 cluding procedures for voting and adopting ordinances and resolutions;

8 (6) preparation and distribution to the voters of a report
9 of actions taken at each town council meeting;

10 (7) the election and term of office of at least three
11 council members to provide for the administration of the city and
12 carry out the duties prescribed by law or charter; and

13 (8) the appointment or election of a finance committee that
14 shall be responsible for the preparation of the city budget for each
15 fiscal year, submit the budget to the voters at a town council meeting
16 for approval, and perform other duties prescribed by charter or ordi-
17 nance.

18 * Sec. 13. AS 29.10.070 is amended to read:

19 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule char-
20 ter for an existing municipality shall be submitted to the voters at
21 an election held not less than 30 days or more than 90 days after the
22 proposed charter is published. The proposed home rule charter for an
23 area in the unorganized borough or the proposed home rule charter for
24 an unincorporated community shall be submitted to the voters at an
25 incorporation election held under AS 29.05.110.

26 * Sec. 14. AS 29.10.080(a) is amended to read:

27 (a) If a majority of those voting in an existing municipality
28 favor the proposed charter, [OR] if a majority of those voting in an
29 area in the unorganized borough favor incorporation of a home rule

1 borough, or if a majority of those voting in an unincorporated commu-
2 ity favor incorporation of a town meeting home rule city, the proposed
3 charter becomes the organic law of the municipality effective on the
4 date the election is certified. Thereafter, a court shall take judi-
5 cial notice of the charter. The new home rule municipality shall file
6 the indicated number of copies of the charter with

- 7 (1) the lieutenant governor - two copies;
8 (2) the department - two copies;
9 (3) the district recorder - one copy;
10 (4) the municipal clerk - one copy.

11 * Sec. 15. AS 29.10.090(b) is amended to read:

12 (b) If incorporation of a home rule borough is rejected by the
13 voters in an area in the unorganized borough, the proposed charter is
14 rejected. If incorporation of a town meeting home rule city is
15 rejected by the voters in the unincorporated community, the proposed
16 charter is rejected.

17 * Sec. 16. AS 29.10.100(a) is amended to read:

18 (a) A home rule charter may be amended as provided in the char-
19 ter. Unless the charter is for a town meeting home rule city, an [.
20 EXCEPT THAT NO] amendment is not effective unless ratified by the
21 voters.

22 * Sec. 17. AS 29.10.200 is amended by adding new paragraphs to read:

- 23 (47) AS 29.10.035 -- (charters for town meeting home rule
24 cities)
25 (48) AS 29.20.130(b) -- (town councils)

26 * Sec. 18. AS 29.20.140(e) is amended to read:

27 (e) This section applies to home rule and general law municipal-
28 ities, other than town meeting home rule cities.

29 * Sec. 19. AS 29.20.150(d) is amended to read:

1 (d) This section applies to home rule and general law municipal-
2 ities, other than town meeting home rule cities.

3 * Sec. 20. AS 29.35.260(b) is amended to read:

4 (b) A representative home rule or first class city outside a
5 borough is a city school district and shall establish, operate, and
6 maintain a system of public schools as provided by AS 29.35.160 for
7 boroughs. A town meeting home rule or second class city outside a
8 borough is not a school district and may not establish a system of
9 public schools.

10 * Sec. 21. AS 29.45.050(a) is amended to read:

11 (a) A municipality may exclude or exempt or partially exempt
12 residential property from taxation by ordinance. Except in a town
13 meeting home rule city, the ordinance must be ratified by the voters
14 at an election. An exclusion or exemption authorized by this section
15 may not exceed the assessed value of \$10,000 for any one residence.

16 * Sec. 22. AS 29.71.800(4) is amended to read:

17 (4) "city" means a general law first or second class city
18 or a town meeting or representative home rule city;

19 * Sec. 23. AS 29.71.800(7) is amended to read:

20 (7) "council" means the governing body of a city and in-
21 cludes the town council of a town meeting home rule city composed of
22 all the city voters;

23 * Sec. 24. AS 29.71.800(9) is amended to read:

24 (9) "election" means a regular or special municipal elec-
25 tion and includes an election held at a town council meeting of a town
26 meeting home rule city but [AND] does not include a state election;

27 * Sec. 25. AS 29.71.800 is amended by adding a new paragraph to read:

28 (26) "home rule municipality" means a municipality that has
29 adopted a home rule charter and is a representative or town meeting

1 home rule city, a home rule borough, or a unified municipality.

2 * Sec. 26. AS 35.15.120(2) is amended to read:

3 (2) "governing body" means in the case of a municipality,
4 its assembly or council, or, if it is a town meeting home rule city,
5 the voters acting in a town council meeting, and, in the case of a
6 regional educational attendance area, its regional school board;

7 * Sec. 27. AS 39.20.340(a) is amended to read:

8 (a) An employee of the state, or a municipality [POLITICAL
9 SUBDIVISION,] with the approval of the governing body [CITY COUNCIL OR
10 BOROUGH ASSEMBLY], who is a member of a reserve or auxiliary component
11 of the United States Armed Forces is entitled to a leave of absence
12 without loss of pay, time or efficiency rating on all days during
13 which the employee is ordered to training duty, as distinguished from
14 active duty, with troops or at field exercises, or for instruction, or
15 when under direct military control in the performance of a search and
16 rescue mission. The leave of absence may not exceed 16 1/2 working
17 days in any 12-month period.

18 * Sec. 28. AS 39.20.350 is amended to read:

19 Sec. 39.20.350. RESTORATION OF RESERVE MEMBERS TO FORMER POSI-
20 TIONS. A member of a reserve component of the United States Armed
21 Forces employed by the state, a political subdivision, or a municipal
22 corporation with the approval of the governing body [CITY COUNCIL] who
23 is ordered to duty by proper authority, shall, when relieved from
24 duty, be restored to the position the employee held when ordered to
25 duty.

26 * Sec. 29. AS 39.50.145 is amended to read:

27 Sec. 39.50.145. PARTICIPATION BY MUNICIPALITIES. A municipality
28 may exempt its municipal officers from the requirements of this chap-
29 ter if a majority of the voters voting on the question at a regular

1 election, as defined by AS 29.71.800(20), or a special municipality-
2 wide election, vote to exempt its municipal officers from the require-
3 ments of this chapter. The question of exemption from the require-
4 ments of this chapter may be submitted by the governing body [CITY
5 COUNCIL OR BOROUGH ASSEMBLY] by ordinance or by initiative election.

6 * Sec. 30. AS 42.30.030 is amended to read:

7 Sec. 42.30.030. BOOKS OF ACCOUNT. Every person installing,
8 operating or maintaining a public service plant for the purpose of
9 supplying the city or the inhabitants of the city with telephone
10 service, water, power, lighterage, wharfage, dockage, storage, heat or
11 light, or rendering other kindred public service shall keep correct
12 books of account in permanent convenient form showing in detail the
13 volume of business done, the character of the business done, the
14 quantity and kind of service rendered, rates charged, and all expenses
15 incurred in connection with the operation of the enterprise, showing
16 the items of expense in detail. The books shall be open to inspection
17 by the mayor, [AND THE] city council and [BY] an accredited agent,
18 auditor, or representative appointed by the mayor, [AND] city council,
19 or voters at a town meeting home rule city at a town council meeting.

20 * Sec. 31. AS 42.30.040 is amended to read:

21 Sec. 42.30.040. ANNUAL STATEMENT. [(a)] During April of each
22 year, each person engaged in furnishing a public service, except a
23 rural electrification or telephone cooperative or nonprofit asso-
24 ciation receiving financial assistance from the federal government
25 under the Rural Electrification Act, shall file with the city council
26 a written statement under oath, sworn to by the person having the
27 management and control of the business or other person familiar with
28 all the facts. The statement shall contain a detailed list of all
29 property used in connection with the enterprise and shall give the

1 valuation of each piece of property listed. It shall also contain a
2 statement of the receipts and disbursements during the year, and the
3 profits or losses. The statement of disbursements shall show to whom
4 each item was paid and what for. The statement shall be for the calen-
5 dar year preceding and shall be for the use of the governing body of
6 the city [COUNCIL].

7 [(b) THE CITY COUNCIL IS NOT BOUND BY THE STATEMENT BUT MAY
8 INQUIRE INTO ITS TRUTH.]

9 * Sec. 32. AS 44.47.145(d) is amended to read:

10 (d) Before a grant is made under this section, the governing
11 body [CITY COUNCIL] or, if the community is not incorporated, a rea-
12 sonable representative body in the community shall agree in writing to
13 maintain and operate the bulk storage facility to be constructed with
14 the proceeds of the grant.

15 * Sec. 33. AS 44.88.220(5) is amended to read:

16 (5) "governing body of a political subdivision" means, when
17 used with respect to the location of a project, the council or the
18 voters of a town meeting home rule city acting in a town council
19 meeting if the project is to be located in a city in the unorganized
20 borough, or the assembly if the project is to be located in an or-
21 ganized borough or a unified municipality;

22 * Sec. 34. AS 46.40.130(a) is amended to read:

23 (a) Organization of a coastal resource service area may be
24 initiated

25 (1) by submission to the council of a petition signed by a
26 number of registered voters equal to 15 percent of the number of votes
27 cast within the coastal resource service area at the last state gener-
28 al election;

29 (2) by submission to the council of a resolution approved

1 by the governing body [CITY COUNCIL] or traditional village council of
2 not less than 25 percent of the number of cities and villages within
3 the coastal service area; or

4 (3) at the direction of a majority of the members of the
5 council in the manner set out in AS 46.40.160.

6 * Sec. 35. AS 46.40.180(a) is amended to read:

7 (a) Before adoption by a coastal resource service area board, or
8 by the Department of Community and Regional Affairs under AS 46.40.-
9 170, a district coastal management program shall be submitted for
10 review to each city or village within the coastal resource service
11 area. The governing body [COUNCIL] of a city or traditional village
12 council shall consider the program submitted for review. Within 60
13 days of submission, the governing body [COUNCIL] of a city or tra-
14 ditional village council shall either approve the program or enter
15 objections to all or any portion of the program.

16 * Sec. 36. AS 46.40.180(c) is amended to read:

17 (c) Objection by a city [COUNCIL] under (b) of this section is
18 limited to objection to elements of the program affecting resources or
19 the use of resources within the corporate limits of the city. Objec-
20 tion by a traditional village council under (b) of this section is
21 limited to objection to elements of the program affecting resources or
22 the use of resources within the village or within two miles of the
23 village.

24 * Sec. 37. This Act takes effect January 1, 1987.

25