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6-0514A

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 257

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fourth class boroughs."

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

8 * Section 1. AS 14.08.031(a) is amended to read:

9 (a) The Department of Community and Regional Affairs in consul-
10 tation with the Department of Education and local communities shall
11 divide the area in the unorganized borough and fourth class boroughs
12 into educational service areas using the boundaries or sub-boundaries
13 of the regional corporations established under the Alaska Native
14 Claims Settlement Act, unless by referendum a community votes to merge
15 with another community contiguous to it but within the boundaries or
16 sub-boundaries of another regional corporation.

17 * Sec. 2. AS 14.08.031(b) is amended to read:

18 (b) An educational service area established [IN THE UNORGANIZED
19 BOROUGH] under (a) of this section constitutes a regional educational
20 attendance area. As far as practicable, each regional educational
21 attendance area shall contain an integrated socio-economic, linguis-
22 tically and culturally homogeneous area. In the formation of the
23 regional educational attendance areas, consideration shall be given to
24 the transportation and communication network to facilitate the admin-
25 istration of education and communication between communities that
26 comprise the area. Whenever possible, municipalities, other govern-
27 mental or regional corporate entities, drainage basins and other
28 identifiable geographic features shall be used in describing the
29 boundaries of the regional school attendance areas.

1 * Sec. 3. 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 first class and home rule city in the unorganized
5 borough or in a fourth class borough is a city school district;

6 (2) each unified municipality and first, second, or third
7 class [ORGANIZED] borough is a borough school district;

8 (3) the area outside a city or borough school district
9 [ORGANIZED BOROUGHS AND OUTSIDE FIRST CLASS CITIES] is divided into
10 regional educational attendance areas.

11 * Sec. 4. AS 29.04.030 is amended to read:

12 Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipal-
13 ities are of six [FIVE] classes:

14 (1) first class boroughs;

15 (2) second class boroughs;

16 (3) third class boroughs;

17 (4) fourth class boroughs;

18 (5) first class cities;

19 (6) [(5)] second class cities.

20 * Sec. 5. AS 29.04 is amended by adding a new section to read:

21 Sec. 29.04.070. RECLASSIFICATION OF FOURTH CLASS BOROUGHS. A
22 fourth class borough may reclassify as a first or second class borough
23 in the manner provided by AS 29.35.320 - 29.35.330 for the addition of
24 an areawide power by a first or second class borough, except the
25 petition or proposal requests reclassification instead of requesting
26 addition of a power.

27 * Sec. 6. AS 29.05.031(a) is amended to read:

28 (a) An area that meets the following standards may incorporate
29 as a home rule, first class, [OR] second class, or fourth class

1 borough:

2 (1) the population of the area is interrelated and inte-
3 grated as to its social, cultural, and economic activities, and is
4 large and stable enough to support borough government;

5 (2) the boundaries of the proposed borough conform gener-
6 ally to natural geography and include all areas necessary for full
7 development of municipal services;

8 (3) the economy of the area includes the human and finan-
9 cial resources capable of providing municipal services; evaluation of
10 an area's economy includes land use, property values, total economic
11 base, total personal income, resource and commercial development,
12 anticipated functions, expenses, and income of the proposed borough;

13 (4) land, water, and air transportation facilities allow
14 the communication and exchange necessary for the development of inte-
15 grated borough government.

16 * Sec. 7. AS 29.35.160(a) is amended to read:

17 (a) Each unified municipality, first class borough, second class
18 borough, and third class borough constitutes a borough school district
19 and establishes, maintains, and operates a system of public schools on
20 an areawide basis as provided in AS 14.14.060. A military reservation
21 in a borough is not part of the borough school district until the
22 military mission is terminated or until inclusion in the borough
23 school district is approved by the Department of Education. However,
24 operation of the military reservation schools by the borough school
25 district may be required by the Department of Education under AS 14.-
26 14.110. If the military mission of a military reservation terminates
27 or continued management and control by a regional educational atten-
28 dance area is disapproved by the Department of Education, operation,
29 management, and control of schools on the military reservation

1 transfers to the borough school district in which the military reser-
2 vation is located.

3 * Sec. 8. AS 29.35 is amended by adding a new section to article 3 to
4 read:

5 Sec. 29.35.230. FOURTH CLASS BOROUGH POWERS. (a) A fourth
6 class borough may

7 (1) borrow money and issue negotiable or nonnegotiable
8 bonds or other evidences of indebtedness as provided by AS 29.47;

9 (2) acquire the power to provide for planning, platting,
10 and land use regulation as provided in AS 29.40 for first and second
11 class boroughs, except the power may only be exercised within a ser-
12 vice area; and

13 (3) acquire any power not otherwise prohibited by law,
14 except the power may only be exercised within a service area.

15 (b) A fourth class borough may not

16 (1) exercise an areawide power other than tax assessment
17 and collection; or

18 (2) function as a borough school district or establish a
19 school system.

20 * Sec. 9. AS 29.35.250(c) is amended to read:

21 (c) A home rule city in a third or fourth class borough shall
22 provide for planning, platting, and land use regulation as provided by
23 AS 29.35.180(b) for home rule boroughs. A first class city in a third
24 or fourth class borough shall provide for planning, platting, and land
25 use regulation as provided by AS 29.35.180(a) for first and second
26 class boroughs. A second class city in a third or fourth class bor-
27 ough may provide for planning, platting, and land use regulation as
28 provided by AS 29.35.180(a) for first and second class boroughs.

29 * Sec. 10. AS 29.35.260(b) is amended to read:

1 (b) A home rule or first class city in the unorganized borough
2 or in [OUTSIDE] a fourth class borough is a city school district and
3 shall establish, operate, and maintain a system of public schools as
4 provided by AS 29.35.160 for unified municipalities, first class
5 boroughs, second class boroughs, and third class boroughs. A second
6 class city in the unorganized borough or in [OUTSIDE] a fourth class
7 borough is not a school district and may not establish a system of
8 public schools.

9 * Sec. 11. AS 29.35.490(b) is amended to read:

10 (b) If the exercise of the power is approved by a majority of
11 the voters residing in the service area, a third or fourth class
12 borough may exercise in a service area any power not otherwise prohib-
13 ited by law.

14 * Sec. 12. AS 29.35.490(c) is amended to read:

15 (c) A second, [OR] third, or fourth class borough may establish
16 a service area that includes only vacant, unappropriated, and unre-
17 served land owned by the borough. A second, [OR] third, or fourth
18 class borough may establish a service area, with the concurrence of
19 the commissioner of natural resources, that includes only vacant,
20 unappropriated, and unreserved land owned by the state and classified
21 for disposal to individuals. By ordinance a second, [OR] third, or
22 fourth class borough may provide the services in a service area estab-
23 lished under this subsection necessary to develop state or municipal
24 land as required by the planning, platting, and land use regulations
25 of the borough.

26 * Sec. 13. AS 38.05.037(a) is amended to read:

27 (a) In areas of the unorganized borough [STATE OUTSIDE FIRST,
28 SECOND OR THIRD CLASS BOROUGHS] where there is no city exercising the
29 power of land use regulation [MUNICIPALITY WITH A ZONING POWER], the

1 division of lands shall exercise the zoning power by adopting zoning
2 regulations.

3 * Sec. 14. AS 38.05.037(b) is amended to read:

4 (b) The division of lands may exercise its zoning power

5 (1) within federal land in the unorganized borough only at
6 the times and in the areas it is requested to do so by the Secretary
7 of the Interior to facilitate sales of federal land within the unor-
8 ganized borough under P.L. 88-608, 78 Stat. 988;

9 (2) within any portion of a third or fourth class borough
10 covered by the Alaska coastal management program adopted in accordance
11 with the provisions of AS 46.40 if the municipality has not done so.

12 * Sec. 15. AS 40.15.070 is amended to read:

13 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
14 subdivided or dedicated is situated within a first or second class
15 borough, the proposed subdivision or dedication shall be submitted to
16 the borough planning commission for approval. If the land is situated
17 within a city in the unorganized borough, [OR] the third class bor-
18 ough, or a fourth class borough, the proposed subdivision or dedica-
19 tion shall be submitted to the city planning commission for approval.
20 The borough planning commission is the platting authority for the
21 first or second class borough, the city planning commission is the
22 platting authority for the city, and the Department of Natural Re-
23 sources is the platting authority in the remaining areas of the state
24 [AND THIRD CLASS BOROUGH] for the change or vacation of existing plats
25 or a portion of such plats, as provided in AS 40.15.075. If the
26 borough or the city does not have a planning commission, the borough
27 assembly or the city governing body, respectively, is the platting
28 authority and the proposed subdivision or dedication shall be submit-
29 ted to it. A subdivision may not be filed and recorded until it is

1 approved by the platting authority.

2 * Sec. 16. AS 40.15.075 is amended to read:

3 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND IN
4 THIRD AND FOURTH CLASS BOROUGHs. The Department of Natural Resources
5 is the platting authority in the area outside organized boroughs and
6 outside cities in the unorganized borough, [AND] in the third class
7 borough and, in each fourth class borough for only the purposes of
8 hearing and acting on petitions for the change or vacation of plats
9 and shall execute this function substantially in conformity with the
10 provisions of AS 29.40.130 - 29.40.160. Costs of publication and
11 mailing authorized in AS 29.40.130 shall be paid to the Department of
12 Natural Resources by the petitioner. The Department of Natural Re-
13 sources shall adopt reasonable regulations governing the exercise of
14 the authority conferred by this section.