

SENATE BILL NO. 164

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced: 3/16/93  
Referred: CRA, JUD

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, and dissolution."

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

3 \* Section 1. AS 29.04.040(a) is amended to read:

4 (a) A second class city may be reclassified as a first class city [BY HOLDING  
5 AN ELECTION ON THE QUESTION,] if it meets the standards for incorporation  
6 as a first class city under AS 29.05.011(a). Reclassification is proposed by filing  
7 a petition with the department. The department shall investigate the proposal  
8 and report its findings to the Local Boundary Commission with its  
9 recommendations. The commission shall hold at least one public hearing in the  
10 city on the proposal. If the commission determines that the city meets the  
11 standards for incorporation as a first class city and that reclassification is in the  
12 best interests of the state, it shall accept the petition. If the commission  
13 determines that the city does not meet the standards or that reclassification is not  
14 in the best interests of the state, it shall reject the petition. The decision may be

1 appealed under AS 44.62 (Administrative Procedure Act) [THE DEPARTMENT  
2 DETERMINES FROM THE BEST FIGURES AVAILABLE THAT THE  
3 POPULATION OF THE CITY HAS REACHED 400 PERMANENT RESIDENTS].

4 \* Sec. 2. AS 29.04.040(b) is amended to read:

5 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]  
6 reclassification may be filed by [INITIATED IN TWO WAYS:]

7 (1) a number of voters equal to 15 percent of the number of votes cast  
8 in the city at the preceding regular election [MAY FILE A PETITION WITH THE  
9 COUNCIL]; or

10 (2) the council may propose reclassification.

11 \* Sec. 3. AS 29.04.040(c) is amended to read:

12 (c) If the Local Boundary Commission accepts a petition for  
13 reclassification, the [THE] council shall hold at least one public hearing in the city  
14 on the question of reclassification. The council shall then evaluate the ability of the  
15 city to assume first class status and make its findings public.

16 \* Sec. 4. AS 29.05.011(a) is amended to read:

17 (a) A community that meets the following standards may incorporate as a first  
18 class or home rule city:

19 (1) the community has 400 or more permanent residents;

20 (2) the boundaries of the proposed city include all areas necessary to  
21 provide municipal services on an efficient scale;

22 (3) the economy of the community includes the human and financial  
23 resources necessary to provide municipal services; in considering the economy of the  
24 community, the Local Boundary Commission shall consider property values, economic  
25 base, personal income, resource and commercial development, anticipated functions,  
26 and the expenses and income of the proposed city, including the ability of the  
27 community to generate local revenue;

28 (4) the population of the community is stable enough to support city  
29 government;

30 (5) there is a demonstrated need for city government.

31 \* Sec. 5. AS 29.05.031(a) is amended to read:

1 (a) An area that meets the following standards may incorporate as a home rule,  
2 first class, or second class borough, or as a unified municipality:

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

6 (2) the boundaries of the proposed borough or unified municipality  
7 conform generally to natural geography and include all areas necessary for full  
8 development of municipal services;

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

14 (4) land, water, and air transportation facilities allow the  
15 communication and exchange necessary for the development of integrated borough  
16 government.

17 \* Sec. 6. AS 29.05.060 is amended to read:

18 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a  
19 petition with the department. The petition must [SHALL] include the following  
20 information about the proposed municipality:

21 (1) class;

22 (2) name;

23 (3) boundaries;

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

25 (5) composition and apportionment of the governing body;

26 (6) a proposed operating budget for the municipality projecting sources  
27 of income and items of expenditure through the first full fiscal year of operation;

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

31 (A) home rule and first class cities in the area of the proposed

- 1                    borough or unified municipality; and
- 2                    (B) the area of the proposed borough or unified municipality
- 3                    outside home rule and first class cities;
- 4                    (8) for a first class borough or unified municipality, a designation of
- 5                    areawide powers to be exercised;
- 6                    (9) for a second class borough, a designation of areawide and
- 7                    nonareawide powers to be exercised;
- 8                    (10) for a first class, [OR] second class, or home rule city, a
- 9                    designation of the powers to be exercised;
- 10                    (11) for a first class or home rule city, based on the number who voted
- 11                    in the area in the last general election, the signatures and resident addresses of 50
- 12                    voters in the proposed city or of 15 percent of the voters in the proposed city,
- 13                    whichever is greater;
- 14                    (12) for a second class city, based on the number who voted in the area
- 15                    in the last general election, the signatures and resident addresses of 25 voters in the
- 16                    proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
- 17                    (13) for a home rule city, home rule borough, or unified municipality
- 18                    a proposed home rule charter.

19 \* Sec. 7. AS 29.05.110(d) is amended to read:

20                    (d) A home rule charter included in an incorporation petition under

21                    AS 29.05.060(13) is considered to be part of the incorporation question. The home

22                    rule charter is adopted if the voters approve incorporation of the city, borough, or

23                    unified municipality.

24 \* Sec. 8. AS 29.05.140 is amended by adding a new subsection to read:

25                    (e) Upon incorporation, the home rule charter of a unified municipality

26                    operates to dissolve all municipalities in the area unified in accordance with the

27                    charter.

28 \* Sec. 9. AS 29.05.190 is amended to read:

29                    Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND

30                    UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of

31                    transition to borough government and to provide for interim governmental operations,

1 each borough or unified municipality incorporated after December 31, 1985, is  
2 entitled to organization grants as follows:

3 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial  
4 fiscal year;

5 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year;  
6 and

7 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

8 (b) The department shall disburse the first organization grant to a borough or  
9 unified municipality within 30 days after certification of the [INCORPORATION]  
10 election favoring incorporation [OF A BOROUGH], or as soon after that as money is  
11 appropriated and available for the purpose. The second grant shall be disbursed within  
12 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,  
13 or as soon after that as money is appropriated and available for the purpose. The third  
14 grant shall be disbursed within 30 days after the beginning of the municipality's  
15 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and  
16 available for the purpose.

17 (c) This section does not apply to a borough incorporated by consolidation or  
18 to a unified municipality that occupies the area formerly occupied by a borough.

19 \* Sec. 10. AS 29.05.210 is amended to read:

20 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND  
21 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of incorporation  
22 of a borough or unified municipality incorporated after December 31, 1985, the  
23 department shall determine the population of the borough or unified municipality.

24 (b) The department shall provide assistance to each borough and unified  
25 municipality incorporated after December 31, 1985, in

26 (1) establishing the initial sales and use tax assessment and collection  
27 department if the borough or unified municipality has adopted a sales or use tax;

28 (2) determining the initial property tax assessment roll if the borough  
29 or unified municipality has adopted a property tax, including contracting for  
30 appraisals of property needed to complete the initial assessment.

31 (c) This section does not apply to a borough incorporated by consolidation or

1 to a unified municipality that occupies the area formerly occupied by a borough.

2 \* Sec. 11. AS 29.06.190 is amended by adding a new subsection to read:

3 (b) An area that is not incorporated as a borough, including any cities in the  
4 area, may incorporate as a unified municipality under AS 29.05.031.

5 \* Sec. 12. AS 29.06.470(a) is amended to read:

6 (a) Except as provided in (b) of this section, voters of a municipality may  
7 petition for dissolution when the municipality is free of debt, or, if in debt, each of its  
8 creditors is satisfied with a method of repayment and

9 (1) the municipality no longer meets the minimum standards prescribed  
10 for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

11 (2) the municipality ceases to use each of its mandatory powers; or

12 (3) the dissolution petition filed under AS 29.06.460 is signed by a  
13 number of voters of the municipality proposed to be dissolved greater than 50 percent  
14 of the number of votes cast in the last regular [GENERAL] election in that  
15 municipality.

16 \* Sec. 13. AS 29.06.500(a) is amended to read:

17 (a) If the Local Boundary Commission determines that a municipality fails to  
18 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION  
19 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER  
20 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the  
21 commission determines that the petition meets the standards under AS 29.06.470(a)(1),  
22 (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of the municipality is in the best  
23 interest of the state, it shall accept the petition.

24 \* Sec. 14. AS 29.10.010(b) is amended to read:

25 (b) A second class city that exceeds 35 square miles in area may adopt a  
26 charter for its own government and reclassifv as a home rule city if the department  
27 determines from the best figures available that the population of the city is at least  
28 3,500 permanent residents. Reclassification is proposed by filing a petition with the  
29 department. The department shall investigate the proposal and report its findings  
30 to the Local Boundarv Commission with its recommendations. The commission  
31 shall hold at least one public hearing in the city on the proposal. If the

1 commission determines that the city meets the standards under this section and  
2 that reclassification is in the best interests of the state. It shall accept the petition.  
3 If the commission determines that the city does not meet the standards or that  
4 reclassification is not in the best interests of the state, it shall reject the petition.  
5 The decision may be appealed under AS 44.62 (Administrative Procedure Act).

6 \* Sec. 15. AS 29.10.010(c) is amended to read:

7 (c) At an incorporation election [FOR BOROUGH INCORPORATION], an  
8 area in the unorganized borough may adopt a charter for its own government and  
9 incorporate as a home rule city, borough, or unified municipality.

10 \* Sec. 16. AS 29.10.010(f) is amended to read:

11 (f) The proposed charter for an unincorporated area [OF THE  
12 UNORGANIZED BOROUGH] shall be prepared by the petitioners and filed under  
13 AS 29.05.060 with the petition to incorporate a home rule city, borough, or unified  
14 municipality.

15 \* Sec. 17. AS 29.10.020 is amended to read:

16 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least  
17 one model home rule charter for a city, borough, and unified municipality. The  
18 model charters [CHARTER] shall be made available to persons interested in filing a  
19 petition to incorporate a home rule municipality [BOROUGH] under AS 29.05.060.

20 \* Sec. 18. AS 29.10.070 is amended to read:

21 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for  
22 an existing municipality shall be submitted to the voters at an election held not less  
23 than 30 days or more than 90 days after the proposed charter is published. The  
24 proposed home rule charter for an unincorporated area [IN THE UNORGANIZED  
25 BOROUGH] shall be submitted to the voters at an incorporation election held under  
26 AS 29.05.110.

27 \* Sec. 19. AS 29.10.080(a) is amended to read:

28 (a) If a majority of those voting in an existing municipality favor the proposed  
29 charter or if a majority of those voting in an unincorporated area [IN THE  
30 UNORGANIZED BOROUGH] favor incorporation of a home rule municipality  
31 [BOROUGH], the proposed charter becomes the organic law of the municipality

1 effective on the date the election is certified. Thereafter, a court shall take judicial  
2 notice of the charter. The new home rule municipality shall file the indicated number  
3 of copies of the charter with

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

8 \* Sec. 20. AS 29.10.090(b) is amended to read:

9 (b) If incorporation of a home rule municipality [BOROUGH] is rejected by  
10 the voters in an unincorporated area [IN THE UNORGANIZED BOROUGH], the  
11 proposed charter is rejected.