

CS FOR SENATE BILL NO. 164(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/2/94

Referred: Rules

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, merger, consolidation,
2 annexation, detachment, and dissolution, and to municipal school districts."

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

4 * Section 1. AS 14.12.010 is amended to read:

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

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

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

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040(a) is amended to read:

13 (a) A second class city may be reclassified as a first class city. A first class
14 or home rule city may be reclassified as a second class city. Reclassification is

1 proposed by filing a petition with the department. The department shall
2 investigate the proposal and report its findings to the Local Boundary
3 Commission with its recommendations. The commission shall hold at least one
4 public hearing in the city on the proposal. If the commission determines that the
5 city meets the standards for incorporation under AS 29.05.011 for the class of city
6 proposed in the reclassification petition and that reclassification is in the best
7 interests of the state, it may accept or amend and accept the petition. If the
8 commission determines that the city does not meet the standards or that
9 reclassification is not in the best interests of the state, it shall reject the petition.
10 The commission shall notify the city of its decision. The decision may be appealed
11 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION
12 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST
13 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED
14 400 PERMANENT RESIDENTS].

15 * Sec. 3. AS 29.04.040(b) is amended to read:

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

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

21 (2) the council [MAY PROPOSE RECLASSIFICATION].

22 * Sec. 4. AS 29.04.040(d) is amended to read:

23 (d) The council shall, within 30 days after receiving notification from the
24 Local Boundary Commission that a petition has been accepted [ITS FINDINGS
25 HAVE BEEN MADE PUBLIC], order an election on the question of reclassification.
26 The election shall be held at least 30 days after the order and not later than the next
27 regular election occurring after the 30-day period. If more than one question is to be
28 voted on at the election, each shall appear separately on the ballot.

29 * Sec. 5. AS 29.04.040(e) is amended to read:

30 (e) The council shall certify the election results to the department. If the
31 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified

1 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

2 * Sec. 6. AS 29.05.011(a) is amended to read:

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

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

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

8 (3) the economy of the community includes the human and financial
9 resources necessary to provide municipal services; in considering the economy of the
10 community, the Local Boundary Commission shall consider property values, economic
11 base, personal income, resource and commercial development, anticipated functions,
12 and the expenses and income of the proposed city, including the ability of the
13 community to generate local revenue;

14 (4) the population of the community is stable enough to support city
15 government;

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

17 * Sec. 7. AS 29.05.031(a) is amended to read:

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

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

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

26 (3) the economy of the area includes the human and financial resources
27 capable of providing municipal services; evaluation of an area's economy includes land
28 use, property values, total economic base, total personal income, resource and
29 commercial development, anticipated functions, expenses, and income of the proposed
30 borough or unified municipality:

31 (4) land, water, and air transportation facilities allow the

1 communication and exchange necessary for the development of integrated borough
2 government.

3 * Sec. 8. AS 29.05.060 is amended to read:

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

- 7 (1) class;
- 8 (2) name;
- 9 (3) boundaries;
- 10 (4) maps, documents, and other information required by the department;
- 11 (5) composition and apportionment of the governing body;
- 12 (6) a proposed operating budget for the municipality projecting sources
13 of income and items of expenditure through the first full fiscal year of operation;
- 14 (7) for a borough or unified municipality, based on the number who
15 voted in the respective areas in the last general election, the signature and resident
16 address of 15 percent of the voters in
- 17 (A) home rule and first class cities in the area of the proposed
18 borough or unified municipality; and
- 19 (B) the area of the proposed borough or unified municipality
20 outside home rule and first class cities;
- 21 (8) for a first class borough or unified municipality, a designation of
22 areawide powers to be exercised;
- 23 (9) for a second class borough, a designation of areawide and
24 nonareawide powers to be exercised;
- 25 (10) for a first class, [OR] second class, or home rule city, a
26 designation of the powers to be exercised;
- 27 (11) for a first class or home rule city, based on the number who voted
28 in the area in the last general election, the signatures and resident addresses of 50
29 voters in the proposed city or of 15 percent of the voters in the proposed city,
30 whichever is greater;
- 31 (12) for a second class city, based on the number who voted in the area

1 in the last general election, the signatures and resident addresses of 25 voters in the
2 proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
3 (13) for a home rule city, home rule borough, or unified municipality
4 a proposed home rule charter.

5 * Sec. 9. AS 29.05.100(a) is amended to read:

6 (a) If the Local Boundary Commission determines that a proposed municipality
7 fails to meet the standards for incorporation, it shall reject the petition. If the
8 commission determines that the proposed municipality meets the standards, it may
9 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES
10 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO
11 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the
12 petition.

13 * Sec. 10. AS 29.05.110(d) is amended to read:

14 (d) A home rule charter included in an incorporation petition under
15 AS 29.05.060(13) is considered to be part of the incorporation question. The home
16 rule charter is adopted if the voters approve incorporation of the city, borough, or
17 unified municipality.

18 * Sec. 11. AS 29.05.140 is amended by adding a new subsection to read:

19 (e) Upon incorporation, the home rule charter of a unified municipality
20 operates to dissolve all municipalities in the area unified in accordance with the
21 charter.

22 * Sec. 12. AS 29.05.190 is amended to read:

23 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
24 UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
25 transition to borough government and to provide for interim governmental operations,
26 each borough or unified municipality incorporated after December 31, 1985, is
27 entitled to organization grants as follows:

28 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial
29 fiscal year;

30 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year;

31 and

1 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

2 (b) The department shall disburse the first organization grant to a borough or
3 unified municipality within 30 days after certification of the [INCORPORATION]
4 election favoring incorporation [OF A BOROUGH], or as soon after that as money is
5 appropriated and available for the purpose. The second grant shall be disbursed within
6 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,
7 or as soon after that as money is appropriated and available for the purpose. The third
8 grant shall be disbursed within 30 days after the beginning of the municipality's
9 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and
10 available for the purpose.

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

13 * Sec. 13. AS 29.05.210 is amended to read:

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

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

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

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

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

27 * Sec. 14. AS 29.06.040(a) is amended to read:

28 (a) The Local Boundary Commission may consider any proposed municipal
29 boundary change. It may reject the proposed change, accept the proposed change, or
30 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A
31 Local Boundary Commission decision under this subsection may be appealed under

- 1 AS 44.62 (Administrative Procedure Act).
- 2 * Sec. 15. AS 29.06.090(a) is amended to read:
- 3 (a) Two or more municipalities may merge or consolidate to form a single
- 4 general law or home rule municipality, except a third class borough may not be
- 5 formed through merger or consolidation.
- 6 * Sec. 16. As 29.06.100(b) is amended to read:
- 7 (b) The petition includes
- 8 (1) the name and class of each existing municipality;
- 9 (2) the name and class of the proposed municipality;
- 10 (3) the proposed composition and apportionment of the governing body;
- 11 (4) maps, documents, and other information that shows that the
- 12 proposed municipality meets the standards for municipal incorporation;
- 13 (5) for a home rule municipality, a proposed home rule charter.
- 14 * Sec. 17. AS 29.06.130(a) is amended to read:
- 15 (a) If the Local Boundary Commission determines that the proposed
- 16 municipality fails to meet the standards for incorporation, it shall reject the merger or
- 17 consolidation petition. If the commission determines that the proposed municipality
- 18 meets these standards, it may [SHALL] accept the petition or amend [. IF THE
- 19 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE
- 20 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE
- 21 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and
- 22 accept the petition.
- 23 * Sec. 18. AS 29.06.140(b) is amended to read:
- 24 (b) A home rule charter in a merger or consolidation petition submitted
- 25 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The
- 26 charter is adopted if the voters approve the merger or consolidation. The director
- 27 of elections shall supervise the election in the general manner prescribed by AS 15
- 28 (Election Code). The state shall pay all election costs.
- 29 * Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:
- 30 (b) An area that is not incorporated as a borough, including any cities in the
- 31 area, may incorporate as a unified municipality under AS 29.05.031.

1 * Sec. 20. AS 29.06.470(a) is amended to read:

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

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

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

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

12 * Sec. 21. AS 29.06.500(a) is amended to read:

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

21 * Sec. 22. AS 29.06.520 is amended to read:

22 Sec. 29.06.520. SUCCESSION [TO ASSETS AND LIABILITIES]. A
23 municipality succeeding to a dissolved municipality succeeds to all rights, powers,
24 duties, assets, and liabilities of the dissolved municipality. Otherwise, the state
25 succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds
26 to a dissolved municipality, the state may enter into a contract for the performance of
27 duties or powers in the area of the dissolved municipality. However, a contract with
28 an organization for the performance of duties or powers entered into under this section
29 does not constitute recognition by the state of governmental powers of that
30 organization.

31 * Sec. 23. AS 29.10.010(c) is amended to read:

1 (c) At an incorporation, merger, or consolidation election a municipality
2 [FOR BOROUGH INCORPORATION, AN AREA IN THE UNORGANIZED
3 BOROUGH] may adopt a charter for its own government and incorporate, merge, or
4 consolidate as a home rule city, borough, or unified municipality.

5 * Sec. 24. AS 29.10.010(f) is amended to read:

6 (f) The proposed charter for a home rule municipality to be formed by
7 incorporation, merger, or consolidation [AN AREA OF THE UNORGANIZED
8 BOROUGH] shall be prepared by the petitioners and filed [UNDER AS 29.05.060]
9 with the petition to incorporate, merge, or consolidate a home rule city, borough, or
10 unified municipality.

11 * Sec. 25. AS 29.10.020 is amended to read:

12 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least
13 one model home rule charter for a city, borough, and unified municipality. The
14 model charters [CHARTER] shall be made available to persons interested in filing a
15 petition to form [INCORPORATE] a home rule municipality [BOROUGH] under
16 AS 29.05.060 or AS 29.06.090.

17 * Sec. 26. AS 29.10.070 is amended to read:

18 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for
19 an existing municipality shall be submitted to the voters at an election held not less
20 than 30 days or more than 90 days after the proposed charter is published. The
21 proposed home rule charter for a home rule municipality to be formed by
22 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED
23 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held
24 under AS 29.05.110 or AS 29.06.140.

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

26 (a) If a majority of those voting in an existing municipality favor the proposed
27 charter or if a majority of those voting to form a home rule municipality by
28 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED
29 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE
30 BOROUGH], the proposed charter becomes the organic law of the municipality
31 effective on the date the election is certified. Thereafter, a court shall take judicial

1 notice of the charter. The new home rule municipality shall file the indicated number
2 of copies of the charter with

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

7 * Sec. 28. AS 29.10.090(b) is amended to read:

8 (b) If incorporation, merger, or consolidation of a home rule municipality
9 [BOROUGH] is rejected by the voters [IN AN AREA IN THE UNORGANIZED
10 BOROUGH], the proposed charter is rejected.

11 * Sec. 29. AS 29.10.100 is amended by adding a new subsection to read:

12 (c) If a charter is amended, the municipality shall file the indicated number of
13 copies of the revised charter with

- 14 (1) the lieutenant governor - two copies;
- 15 (2) the department - two copies;
- 16 (3) the district recorder - one copy;
- 17 (4) the municipal clerk - one copy.

18 * Sec. 30. AS 44.47.567(a) is amended to read:

19 (a) The local boundary commission shall

- 20 (1) make studies of local government boundary problems;
- 21 (2) adopt regulations providing [DEVELOP PROPOSED] standards
22 and procedures for municipal incorporation, annexation, detachment, merger,
23 consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY
24 LINES];

25 (3) consider a local government boundary change requested of it by the
26 legislature, the commissioner of community and regional affairs, or a political
27 subdivision of the state; and

28 (4) develop standards and procedures for the extension of services and
29 ordinances of incorporated cities into contiguous areas for limited purposes upon
30 majority approval of the voters of the contiguous area to be annexed and prepare
31 transition schedules and prorated tax mill levies as well as standards for participation

1 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
2 services.

3 * Sec. 31. AS 29.04.040(c) and AS 29.10.010(b) are repealed.