

CS FOR SENATE BILL NO. 164(RLS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/20/94  
Referred: Today's Calendar

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act providing that home rule cities in the unorganized borough are school  
2 districts; permitting the Local Boundary Commission to amend petitions for  
3 incorporation or proposing municipal boundary changes; applying existing standards  
4 of incorporation for boroughs to unified municipalities; applying existing standards  
5 of incorporation for first class cities to incorporation of a home rule city; and  
6 relating to reclassification of first class or home rule cities to second class cities,  
7 to municipal reclassification and to public hearings on reclassification, to formation  
8 of home rule cities and unified municipalities through incorporation, merger, or  
9 consolidation, to organization grants and transitional assistance for unified  
10 municipalities, to adoption of a home rule charter by a second class city, to  
11 dissolution of municipalities, to filing copies of an amended home rule charter,  
12 and to regulations of the local boundary commission dealing with standards and

1 procedures for municipal incorporation, annexation, detachment, merger,  
2 consolidation, reclassification, and dissolution."

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  
15 proposed by filing a petition with the department. The department shall  
16 investigate the proposal and report its findings to the Local Boundary  
17 Commission with its recommendations. The commission shall hold at least one  
18 public hearing in the city on the proposal. If the commission determines that the  
19 city meets the standards for incorporation under AS 29.05.011 for the class of city  
20 proposed in the reclassification petition and that reclassification is in the best  
21 interests of the state, it may accept or amend and accept the petition. If the  
22 commission determines that the city does not meet the standards or that  
23 reclassification is not in the best interests of the state, it shall reject the petition.  
24 The commission shall notify the city of its decision. The decision may be appealed  
25 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION  
26 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST  
27 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED  
28 400 PERMANENT RESIDENTS].

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

30 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]

1 reclassification may be filed by [INITIATED IN TWO WAYS:]

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

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

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

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

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

14 (e) The council shall certify the election results to the department. If the  
15 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified  
16 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 \* Sec. 8. AS 29.05.060 is amended to read:

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

22 (1) class;

23 (2) name;

24 (3) boundaries;

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

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

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

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

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

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

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

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

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

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

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

18 (13) for a home rule city, home rule borough, or unified municipality  
19 a proposed home rule charter.

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

21 (a) If the Local Boundary Commission determines that a proposed municipality  
22 fails to meet the standards for incorporation, it shall reject the petition. If the  
23 commission determines that the proposed municipality meets the standards, it may  
24 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES  
25 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO  
26 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the  
27 petition.

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

29 (d) A home rule charter included in an incorporation petition under  
30 AS 29.05.060(13) is considered to be part of the incorporation question. The home  
31 rule charter is adopted if the voters approve incorporation of the city, borough, or

1           **unified municipality.**

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

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

6       \* **Sec. 12.** AS 29.05.190 is amended to read:

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

12                   (1) \$300,000 for the **municipality's** [BOROUGH'S] first full or partial  
13          fiscal year;

14                   (2) \$200,000 for the **municipality's** [BOROUGH'S] second fiscal year;  
15          and

16                   (3) \$100,000 for the **municipality's** [BOROUGH'S] third fiscal year.

17          (b) The department shall disburse the first organization grant to a borough **or**  
18          **unified municipality** within 30 days after certification of the [INCORPORATION]  
19          election favoring incorporation [OF A BOROUGH], or as soon after that as money is  
20          appropriated and available for the purpose. The second grant shall be disbursed within  
21          30 days after the beginning of the **municipality's** [BOROUGH'S] second fiscal year,  
22          or as soon after that as money is appropriated and available for the purpose. The third  
23          grant shall be disbursed within 30 days after the beginning of the **municipality's**  
24          [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and  
25          available for the purpose.

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

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

29           Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGHS **AND**  
30           **UNIFIED MUNICIPALITIES.** (a) Within 30 days after the date of incorporation  
31           of a borough **or unified municipality** incorporated after December 31, 1985, the

1 department shall determine the population of the borough or unified municipality.

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

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

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

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

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

12 (a) The Local Boundary Commission may consider any proposed municipal  
13 boundary change. It may reject the proposed change, accept the proposed change, or  
14 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A  
15 Local Boundary Commission decision under this subsection may be appealed under  
16 AS 44.62 (Administrative Procedure Act).

17 \* Sec. 15. AS 29.06.090(a) is amended to read:

18 (a) Two or more municipalities may merge or consolidate to form a single  
19 general law or home rule municipality, except a third class borough may not be  
20 formed through merger or consolidation.

21 \* Sec. 16. As 29.06.100(b) is amended to read:

22 (b) The petition includes

23 (1) the name and class of each existing municipality;

24 (2) the name and class of the proposed municipality;

25 (3) the proposed composition and apportionment of the governing body;

26 (4) maps, documents, and other information that shows that the  
27 proposed municipality meets the standards for municipal incorporation;

28 (5) for a home rule municipality, a proposed home rule charter.

29 \* Sec. 17. AS 29.06.130(a) is amended to read:

30 (a) If the Local Boundary Commission determines that the proposed  
31 municipality fails to meet the standards for incorporation, it shall reject the merger or

1 consolidation petition. If the commission determines that the proposed municipality  
2 meets these standards, it may [SHALL] accept the petition or amend [. IF THE  
3 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE  
4 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE  
5 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and  
6 accept the petition.

7 \* Sec. 18. AS 29.06.140(b) is amended to read:

8 (b) A home rule charter in a merger or consolidation petition submitted  
9 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The  
10 charter is adopted if the voters approve the merger or consolidation. The director  
11 of elections shall supervise the election in the general manner prescribed by AS 15  
12 (Election Code). The state shall pay all election costs.

13 \* Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:

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

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

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

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

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

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

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

28 (a) If the Local Boundary Commission determines that a municipality fails to  
29 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION  
30 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER  
31 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the

1 commission determines that the petition meets the standards under AS 29.06.470(a)(1),  
2 (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of the municipality is in the best  
3 interest of the state, it shall accept the petition. The commission may amend the  
4 proposal and accept the petition.

5 \* Sec. 22. AS 29.06.520 is amended to read:

6 Sec. 29.06.520. SUCCESSION [TO ASSETS AND LIABILITIES]. A  
7 municipality succeeding to a dissolved municipality succeeds to all rights, powers,  
8 duties, assets, and liabilities of the dissolved municipality. Otherwise, the state  
9 succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds  
10 to a dissolved municipality, the state may enter into a contract for the performance of  
11 duties or powers in the area of the dissolved municipality. However, a contract with  
12 an organization for the performance of duties or powers entered into under this section  
13 does not constitute recognition by the state of governmental powers of that  
14 organization.

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

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

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

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

26 \* Sec. 25. AS 29.10.020 is amended to read:

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

1 \* Sec. 26. AS 29.10.070 is amended to read:

2           Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for  
3 an existing municipality shall be submitted to the voters at an election held not less  
4 than 30 days or more than 90 days after the proposed charter is published. The  
5 proposed home rule charter for a home rule municipality to be formed by  
6 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED  
7 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held  
8 under AS 29.05.110 or AS 29.06.140.

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

10           (a) If a majority of those voting in an existing municipality favor the proposed  
11 charter or if a majority of those voting to form a home rule municipality by  
12 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED  
13 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE  
14 BOROUGH], the proposed charter becomes the organic law of the municipality  
15 effective on the date the election is certified. Thereafter, a court shall take judicial  
16 notice of the charter. The new home rule municipality shall file the indicated number  
17 of copies of the charter with

18                       (1) the lieutenant governor - two copies;

19                       (2) the department - two copies;

20                       (3) the district recorder - one copy;

21                       (4) the municipal clerk - one copy.

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

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

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

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

29                       (1) the lieutenant governor - two copies;

30                       (2) the department - two copies;

31                       (3) the district recorder - one copy;

1 (4) the municipal clerk - one copy.

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

3 (a) The local boundary commission shall

4 (1) make studies of local government boundary problems;

5 (2) adopt regulations providing [DEVELOP PROPOSED] standards  
6 and procedures for municipal incorporation, annexation, detachment, merger,  
7 consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY  
8 LINES];

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

12 (4) develop standards and procedures for the extension of services and  
13 ordinances of incorporated cities into contiguous areas for limited purposes upon  
14 majority approval of the voters of the contiguous area to be annexed and prepare  
15 transition schedules and prorated tax mill levies as well as standards for participation  
16 by voters of these contiguous areas in the affairs of the incorporated cities furnishing  
17 services.

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