1971 - 1972

FREE CONFERENCE COMMITTEE RE: MUNICIPAL CODE REVISION, HB 208/SB 113

LIST OF FILES (PAGE 1) MICROFICHE #

FCC 3-RING BINDER: MINUTES, SUGGESTED AMENDMENTS + INFORMATION, BILLS ANNOTATED MINUTES, ANNOTATED COPY OF FCC FINAL REPORT

FCC NOTEBOOK, VOLUME 1 - FCC BILL, REPORT + SUPPLEMENTAL REPORT

FCC NOTEBOOK, VOLUME 2 - AGENDA, MINUTES, AMENDMENTS - BILLS CONSIDERED

FCC NOTEBOOK, VOLUME 3 - BILLS CONSIDERED

FCC 3-Ring

Binder

Municipal Code 1972

Minutes of Meetings

3/18/72	* 3/30/72	4/25/72	5/18/72
3/21/72	4/6/72	* 4/27/72	
* 3/23/72	* 4/11/72	* 5/2/72	
* 3/28/72	* 4/18/72	* 5/17/72	

* Tapes exist for these meetings

Proposed amendments to CSSB 113 (CSHB 208)

FCC Notebooks: Vol. 1 FCCS SCS CSHB 208 (with table of contents)
Vol. 2 Agenda and Minutes of Meetings Held by the Joint Local Governments Committees (with proposed amendments & related bills).
Vol. 3 Bills Considered.

Free Conference Committee Report on SCS CSHB 208am S and CSHB 208am. Journal - May 22, 1972. Annotated copy in files.

Supplemental Report to Free Conference Committee Report on SCS CSHB am S and CSHB 208am. Journal 6/17/72

SB 433 am H (Chap. 147 SLA 1972) Including municipal conflict of interest provisions within the MUNI municipal code and making certain technical corrections in code

citations and provisions.

May 23, 1972 memo from Greg Machcpowski regarding the omission of MS 07.25.070 ~~from~~ (personal financial interest section) from the mun. code.

Municipal Code 1971

Meeting 3/24/71 on tape.

Draft Legislation Offered by Greater Anchorage Area Borough Administration.

List of bills pertaining to Municipal Code (as of 3/2/71)

Memorandum 3/5/71 from Commissioner Hartman to LG Committees regarding Educational provisions of municipal code.

3/9/71 Memorandum from Bill Berrier ~~regarding~~ stating changes between SB 113 & existing municipal law.

3/10/71 Letter from Joe McLean, Juneau – revenue & property tax.

3/22/71 A listing of all amendments to SB 113

Summaries:

Comparisons between proposed CSSB 113 and Existing municipal law.
Comparison of CSSB 113 and SB 113
Summary of proposed amendments to SB113 (3/29/71).

4/12/11 House Journal (p. 777) Committee Report on HB 208
Recommend bill be replaced with Committee Sub. for HB 208 and recommends committee subs. do pass with an amendment. The committee also submitted:
1. A Foreward & Synopsis of Amendments, 2. a comparison of CSSB 113 & Existing Municipal Law, 3. a comparison of CSSB 113 & SB 113.

4/19/11 Memo from Greg Machyowski. Brief explanation of attached amendment to CSHB 208 am.

VERSIONS OF PROPOSED REVISED MUNICIPAL CODE BEFORE THE STATE LEGISLATURE

* 1965 - Senate Bill No. 101 - prepared by staffs of Local Affairs, Legislative Affairs, and Attorney-General's Office

** 1965 - Committee Substitute for Senate Bill No. 101 - Senate Local Government Committee substitute bill, subject of Legislative Council public hearings in the state, summer, 1965

1966 - 2nd Committee Substitute - Senate Local Government Committee substitute bill, presented following point-by-point review of public hearings proposals
for Senate Bill No. 101

*** 1966 - House Bill No. 508 - same bill as 2nd CSSB 101, presented in the House

1967 - House Bill No. 185 - modified version of prior bills, prepared by Local Affairs and introduced into the first session, Fifth Legislature

1969 - House Bill No. 38 - same bill as HB 185, introduced into the first session, Sixth Legislature

\+ 1971 - Senate Bill No. 113 - modified and updated version of HB 38, prepared by Legislative Committee of Alaska Municipal League and Legislative Affairs, emphasizing conformity with substantive provisions of present municipal law (as compared with prior bills) and introduced into the first session, Seventh Legislature

\+ 1971 - HB No. 208 - Same as SB 113

1971 - CSHB No. 208 - Passed House

1971 - SCS CSHB 208 - Reported from Senate Local Government Committee to Rules Committee (summary of committee changes attached to bill)

1972 - SCS CSHB 208 am S passed Senate

* Accounting of sections prepared, in relation to citations of present AS 29 and AS 7

** Summary of provisions prepared, with comparisons to existing law

*** Summary of major differences between proposed code and existing AS 29 and AS 7 prepared

1972 - FCCS SCS CSHB 208 - adopted both houses

\+ Outline of major comparisons with existing law prepared by Billy G. Bernier of Alaska Municipal League Legislative Committee with subsequent memorandum attached, transmitted and introduced to H-LB (see also House Journal Sec. of, Apr 12, 197

I. SUGGESTED AMENDMENTS AND INFORMATION

Committee Minutes 3/18/72
Committee Minutes 3/21/72
Committee Minutes 3/23/72
Committee Minutes 3/28/72
Committee Minutes 3/30/72
Committee Minutes 4/ 6/72
Committee Minutes 4/11/72
Committee Minutes 4/18/72

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II. HOUSE BILLS

	Status
HB 41	Local Government
HB 81	" "
CSHB 86	LAW 29.95.050
HB 96	Local Government
HB 111 am	LAW
CSHB 161	Finance
HB 175	Local Government
HB 187	HWE
HB 214	Local Government
HB 240	State Affairs
HB 257	Local Government
CSHB 258 am	S. Local Government
HB 280	Local Government
HB 285	HWE
HB 290	Local Government
CSHB 296	S. Local Government
HB 315	State Affairs
HB 332	Local Government
HB 335	Rules
HB 423 am	S. Local Government
HB 456	Local Government
HB 470	" "
HB 474	" "
HB 596	" "
HB 660	" "
HB 709	S. HWE
HB 720	Local Government
HB 729	Resources

III. SENATE BILLS

SB 37	Local Government
SB 44	Finance
SB 74	LAW 07.17.020
SB 79	Local Government
SB 82	H. Finance
HCSSB 117 am H	LAW 29.25
HCSSB 119 am H	LAW 29.10.223
SB 159	Local Government
SB 189 am	LAW 40.15.075
SB 190 am H	LAW 07.15.320
SB 260	Local Government
SB 342	" "
SB 363	" "
SB 371	" "
SB 316	" "

IV.

V. MUNICIPAL CODE (CSSB 113) AND AMENDMENTS ADOPTED

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Senator Miller moved that Rep. Miller by the presiding Chairman of all meetings.

After general discussion, the committee decided on the following:

- To bring Vic Fischer and Tom Moorehouse down to help with the municipal code.
- Meeting schedule: Tuesday and Thursday evenings, 7:30 P.M.
- Notify Local Affairs Agency, Attorney General's office, Don Berry of the Alaska Municipal League, and Bill Berrier, Attorney for the City and Borough of Juneau, of the schedule of meetings.
- Should have everything engrossed before presenting to House and Senate.
- Invite Greg Nachyowshy to the meetings.

Among other matters, members indicated they wished considered, were the following:

Merdes - Question of reapportionment regarding borough assembly.
- Borough assembly should have the option by right of referendum to combine school boards and assemblies into one unit.
- List of suggested amendments from Bob Thomas, Department of Education.

Naughton - Municipal election dates.

Harris - Tax exemption on property tax for elderly.

T. Miller - Suggested that the staff assistant compile a list of all bills pending or passed which would amend the code.

Groh - Policy determination - confirmation of municipal department heads by the assembly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 21, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Haughton	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League
Bill Berrier, Attorney, City & Borough of Juneau
Rick Garnett, Assistant Attorney General

All of the Senate Amendments were approved by the committee.

Senator Groh questioned if (h) of the House Education Amendment is existing law. The committee asked Bill Berrier to check this out.

A memorandum from Greg Wachyowsky proposed that definitions of "property", "real property" and "personal property" be added to the Definitions section on page 123, between lines 18 and 19. Senator Groh asked how sewer and water facilities, owned by community cooperatives, would be classified. The committee asked the staff assistant to contact the State Assessor and the Greater Anchorage Borough and North Star Borough Assessors to see how they handle this.

The committee approved the Senate amendment on elections with the following provision to be included:

> "Not withstanding the other provisions of the Act, a municipality may by ordinance adopt a date other than the first Tuesday of October as the date for regular municipal elections."

Senator Miller suggested that the committee consider making mandatory three year terms for municipal officials, instead of the present two year term, unless changed by ordinance.

Rick Garnett suggested that Page 45, line 4, (g) should include wording stating that schools should reflect community interest. The committee asked that he draw up an amendment to this effect.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 76, line 19: after the word "exempt" add: "or partially exempt residential"

Page 77, line 6: change period to semicolon and add "and"

Page 77, between line 6 and 7: add the following new matter: "(C) historic sites, buildings and monuments."

Page 79, line 7: after the word "purposes" add: "except where expressly classified as personal property by municipal ordinance."

Page 124, lines 18 - 19: strike "are elected on the date provided before the enactment of this title and"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 23, 1972

Members present:

Rep. H. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Haughton	

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Rick Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Byron Mallott, Director, Local Affairs Agency

Senator Miller received correspondence stating that Vic Fischer and Tom Moorehouse will be able to come the first part of April.

The committee went through the proposed amendments from Greg Machyowsky, City of Anchorage and the Greater Anchorage Borough. All of Greg Machyowsky's amendments were passed by the committee.

The committee's discussion on the Greater Anchorage Borough amendment suggestions are as follows:

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 - Senator Miller suggested apportionment be at borough option with voter referendum to decide how city representatives are chosen, provided it's one-man one-vote. A city would have six months to correct the problem.

2. Sec. 29.23.090 (a) (1) - Senator Groh suggested having the Local Affairs Agency act on mal-apportionment. The committee requested Hayden Kaden to draw up an amendment on the above two sections.

5. Sec. 29.28.073 - The committee asked Hayden Kaden to draw up an amendment to this effect.

7. Sec. 29.33.080 - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden Kaden to draw up an amendment.

8 Sec. 29.33.090 (d) - Referred this section to Greg Machyowsky. The committee asked Bill Berrier to study the utilization of "police power".

9. Sec. 29.33.110 (b) (3) - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden to draw up an amendment.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 44, line 27: after "school buildings." add "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."

Page 47, line 23: after "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"

Page 61, between lines 5 and 6, add the following new matter: "preservation, maintenance and protection of historic sites, buildings and monuments"

Page 63, line 17: after "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"

Page 82, between lines 26 and 27 add:
"(e) The borough assembly sits as a board of equalization for the purpose of hearing in the manner provided for first class cities any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of that number of members of the assembly over and above the number required for a quorum to transact business and is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings in first class cities as may be adopted by ordinance, including but not limited to quorum, and voting requirements."

Page 121, line 23: before "municipality" insert "home rule or general law"

Page 121, line 26: after "09.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 121, line 27: before "municipality" insert "home rule or general law"

Page 123, between lines 18 and 19, add the following new matter:
"(10) "property" means real and personal property;
(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;
(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

Renumber the following paragraphs accordingly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 28, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
	Sen. E. Mordes

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sig Strandberg, Local Affairs Agency
Rick Garnett, Assistant Attorney General

Chairman Miller stated that Barry Jackson will present testimony before the committee Thursday evening regarding apportionment.

The committee discussed the amendments Hayden Kaden drew up, as requested at last Thursday's meeting. Senator Miller asked Mr. Kaden to change the last sentence of (b) re. apportionment to read "After six months if no". The committee decided to wait until Barry Jackson made his presentation before taking final action on this.

Senator Miller brought up several policy issues for discussion.

Page 19, line 17 (f) (g) (h) (i) (j) - Senator Miller's view was that in the future weighted voting would be abolished on the basis of whether a measure was area-wide or non area-wide in nature. The committee asked Hayden Kaden to draft an amendment striking this distinction.

Page 22 - Executive Power - Senator Miller felt that in boroughs which adopt the borough manager plan of government, the municipality, nonetheless, should retain a chairman for ceremonial reasons, as much as mayors are presently retained in city-manager-governed cities. Senator Miller will refine his proposal and present it at the next meeting.

Page 107, lines 16 - 19: re. Local Boundary Commission. The committee asked Rick Garnett to draw up an amendment giving the Local Boundary Commission authority in annexations without necessarily having a vote by the people.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 38, line 24: delete the words "filing date" and add: "date on which the petition is rejected as insufficient"

Page 47, between lines 5 and 6: add a new subsection to read:
"(g) The commission may delegate the power to act, to hear and to decide if authorized to do so by ordinance of the assembly."

Page 78, line 22: after the word "agricultural" delete the words "or horticultural"

Page 61, between lines 5 and 6: add a new subsection to read:
"(21) consumer protection"

Page 35, line 28 and 29: strike "for one year"

Page 28, line 11: strike "executive and"

Page 57, between lines 16 and 17: add a new subsection to read:
"(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.58.150 and AS 29.58.350.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 30, 1972

Members present:

Rep. M. Miller
Rep. J. Harris
Sen. T. Miller

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Hayden Kaden, Legislative Affairs
Barry Jackson, Attorney
Bill Berrier, Attorney, City and Borough of Juneau
Bob Bettisworth, North Star Borough President
Robert Dozier, State Assessor

Barry Jackson testified before the committee regarding apportionment. Detailed written testimony was submitted to the committee for the records.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 6, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Rich Garnett, Assistant Attorney General
Greg Machyowsky, Legislative Affairs

Proposed legislation re. unification from the Greater Anchorage Area Borough was assigned to Terry Gardiner for research.

The following suggestions were made concerning the reapportionment amendment by Greg Machyowsky:

1. AS 29.23.090 be incorporated in sub-section (b) of AS 29.23.020.
2. AS 29.23.020, sub-section (b): on line 2 of this sub-section, after the words "completion of" add: "the official report of the federal decennial census or additional necessary information"
3. AS 29.23.020, sub-section (b): last line of this sub-section delete: "for abuse of discretion."
4. AS 29.23.090: Page 2, line 8, after the word "reapportionment" add: "must be made"

The committee asked Greg Machyowsky to rephrase the question on his proposed amendment re. unification. Action was postponed until Sen. Merdes returns.

Committee action on Greg Machyowsky's proposed amendment re. Reevaluation was postponed until Sen. Merdes returns.

Sen. Groh introduced an amendment relative to exclusion of cities from boroughs. This information was given to Greg Machyowsky for further study.

A memorandum was received from Sen. Merdes requesting SB 159 be considered for inclusion in the code. Sen. Groh pointed out that this insures the right to a trial--under existing law the court can refuse. The committee asked Greg Machyowsky to make the necessary changes concerning trial de novo.

Policy Decisions:

1. The committee asked Greg Machyowsky to draw up the necessary amendments changing all voting election laws from 1 year to 30 days.
2. Page 48, lines 12 - 15 (d): re. zoning and police powers -- Greg Machyowsky will work with Bill Berrier on this.
3. Sen. Miller suggested making it mandatory that candidates for elected offices should receive 40% of the votes cast.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 11, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Tom Morehouse
Rich Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Roger Huntington, Local Affairs Agency

The committee asked Greg Machyowsky to revise the necessary sections of his amendment re. reapportionment making it clear that a city may appoint its council members to the assembly, provided that equal representation standards are met.

The wording of the ballot proposition re. unification was adopted by the committee. Sen. Merdes offered an amendment requiring that the unification question be placed on the ballot in each borough at the next regular borough election. On hand vote, the amendment failed.

The committee adopted or decided to give further consideration to the following suggestions made by Tom Morehouse:

1. The committee asked Greg Machyowsky to draft an amendment enabling borough assemblies by ordinance to allow the placement of the unification question on the ballot.

2. Page 24, line 20 - 22: The committee asked Greg Machyowsky to draft an amendment to have the borough chairman designate an administrative officer with assembly confirmation to act as chairman during a chairman's temporary absense or disability.

3. An amendment was adopted that a municipality would pay all costs and expenses incurred in a recount when the difference is 2% or less. The committee asked Greg Machyowsky to draw up the necessary language to incorporate it in the code.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 11, 1972

Page 111, line 1 - 17: delete all matter and substitute the following: "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

YES [ ] NO [ ]"

Page 9, line 10: delete "encompasses a trading area with" and substitute "of the area includes the"

Page 42, line 25: delete "two-thirds"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Jim Bruce, Attorney, North Star Borough
Robert Dozier, State Assessor
Greg Machyowsky, Legislative Affairs
Robert Dupere, Consultant for Lost River Mining Co.
Ron Scheardown, Lost River Mining Co.
Pete Walsh, Nome

Jim Bruce suggested to the committee that page 64, line 4 of the code be amended re. the borough building code authority in relation to flood control. Senator Groh asked Mr. Bruce to draw up an amendment and to give it to Greg Machyowsky for further consideration at the next committee meeting.

Jim Bruce asked the committee to amend Page 82, lines 24 - 26, to include a hearing officer on the Board of Equalization. Greg Machyowsky will draft the amendment.

An amendment suggested by Bob Dozier, State Assessor, (#2 on page 70 of notebook) was adopted by the committee. Greg Machyowsky will draft the amendment for final approval at Thursdays meeting.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 18, 1972

Page 83, line 2: after "facts" insert "which are"

Page 83, line 5: delete "three" and add "seven"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 25, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Greg Machyowsky, Legislative Affairs
Bill Berrier, Attorney, City and Borough of Juneau

It was the decision of the committee to have the code engrossed before presenting to both Houses.

The committee asked Greg Machyowsky to draw up the necessary amendments on municipal voter qualifications, leaving length of state residency unspecified and requiring 30 days municipal residence.

The committee asked Greg Machyowsky to incorporate SB 316 into the code.

The committee asked Greg Machyowsky to draw up an amendment providing for borough mayor in addition to manager in manager plan boroughs.

The committee asked Greg Machyowsky to draw up an amendment which would provide for run-off elections for assemblymen or councilmen, if no candidate received in excess of 40% of the votes cast for that office. The election should be held two weeks after initial election.

It was the committee's decision to wait on adding development cities provision to the code until the Senate bill is acted on.

It was the committee's decision to wait on exempting food stamp purchases from local sales taxes until the House bill is acted on.

The committee asked Greg Machyowsky to draw up an amendment incorporating CSHB 296 - senior citizens local property tax relief - into the code.

The committee decided to bring up as the first order of business at the next meeting the agenda item of mass transit powers.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 7, between lines 17 and 18: insert the following new matter:
"(23) AS 29.58.315"

Page 100, between lines 3 and 4: insert the following new matter:
"Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds."

Page 107, line 29: add the following new matter:
"(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time."

Page 83, line 8: strike "review" and substitute "trial"

Page 83, line 8: After "for" add ", and is entitled to,"

Page 83, line 9: after "action." add the following new matter:
"Either party to the appeal may demand a jury trial."

Page 79, line 20: strike "amount" and substitute "estimated price"

Page 79, line 20: delete "on" and substitute "in"

Page 79, line 20: after "market" insert "and under the then prevailing market conditions"

Page 79, line 21: delete "on normal payment terms"

Page 36, line 22: after "election" insert "or the difference between the winning and a losing vote on the result contested is more than two per cent"

Page 24, line 20-21: Delete "The assembly presiding officer shall" and substitute "The borough chairman, subject to assembly approval, shall designate a person to"

Page 56, line 25: after "question" insert "in the borough area outside cities"

Page 64, line 3: after "powers" insert ", except as those code powers relate to flood control,"

Page 48, lines 12 - 15: delete all matter

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 80, between lines 26 and 27, add the following new matter:
"Sec. 29.53.095. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly."

Page 110, line 20: delete all matter and substitute: "Formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition. An assembly resolution for the purpose may be adopted not more often than once every twelve months."

Page 110, line 22: delete "for"

Page 110, line 23: delete "unification"

Page 110, line 27: delete "UNIFICATION" and substitute "ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER"

Page 112, line 2: delete "for unification"
Page 112, line 9: delete "for unification"
Page 112, line 10: after "chapter," insert "or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter"

Page 113, line 9: delete "for unification" and substitute "or adoption of an assembly resolution for the purpose"

Page 113, line 13: after "petition" insert "or adoption of the resolution"

Page 125, line 28: Add new sections to read:
"Sec. 6. AS 29.18.120 (b) is amended to read:
(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city [PETITIONS TO NOMINATE BOROUGH ASSEMBLYMEN MUST INCLUDE THE SIGNATURE AND RESIDENT ADDRESS OF 50 VOTERS WHO

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

ARE RESIDENTS OF THE PROPOSED BOROUGH IN THE AREA OUTSIDE HOME RULE AND FIRST CLASS CITIES.] Petitions to nominate elected [OTHER] municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officers are to be elected under the composition and apportionment set out in the accepted incorporation petition.

*Sec. 7. AS 29.18.120 (d) is amended to read:

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough assembly members representing home rule or first class cities [ARE] appointed by the city council [AND] serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

*Sec. 8. AS 29.23.020 is repealed and re-enacted to read:

*Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT.

(a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b)(3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval in each classification. If,

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

*Sec. 9. AS 29.23.040 is repealed and re-enacted to read:

*Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblyment or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs.

*Sec. 10. AS 29.23.050 is repealed and re-enacted to read:

*Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediate

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

*Sec. 11. AS 29.23.080 is repealed and re-enacted to read:
*Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if the assembly seat vacated is other than an at-large seat, a resident of the borough area to which the seat was apportioned, to serve until the next regular election. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, a vacancy in a councilman's seat on the assembly shall be filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

*Sec. 12. AS 29.23.030, 29.23.060 (f), (g), (h), (i), (j) and AS 29.23.090 - 29.23.100 are repealed.

*Sec. 13. Secs. 6 - 12 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 12 of this Act becomes effective, whichever occurs earlier.

April 27, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Rich Garnett, Assistant Attorney General

The committee decided to add water pollution control powers as an areawide power which could be acquired at the option of the borough, without the usual procedures for petition and vote. The committee decided to include the air pollution control laws of Title 18 on the same basis.

The committee approved the requested amendment relating to acquisition of mass transit powers areawide by boroughs and the acquisition of areawide animal control powers. With respect to mass transit powers, an additional provision was directed to be inserted calling for the Alaska Transportation Commission to decide the question of acquisition of the areawide powers by the borough if a dispute arises between a city and the borough as to acquisition. The provision would apply only in the case of boroughs not exercising mass transit powers areawide on the effective date of the code.

Senator Groh withdrew his amendment relating to exclusion of territory from boroughs.

The amendments approved for inclusion in the code relating to borough mayors in manager plan boroughs, senior citizen property tax relief, and technical amendments on election dates, delegation of powers by municipal boards and commissions and otherwise are to be drafted for approval as to form at the next meeting or otherwise are to be submitted to Rep. Miller and Sen. Miller for their review.

The committee decided to await the Senate Resources Committee proposals on pending development cities legislation before acting on inclusion of such legislation in the code. The committee declined to include food stamp purchases sales tax exemption provisions in the code.

The committee authorized preparation of a summary of changes represented by the free conference bill from bills approved in both Houses. The committee discussed expanding the summary to include a general summary of code provisions.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

"ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them."

Page 94, line 29: delete "29.58.040"and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

Page 123, line 14: after "corporation" insert "and political subdivision,"

Page 94, line 29: delete "tax"and substitute "revenue"

Page 61, line 14: after "garbage" add "and solid waste"

Page 61, line 17: after "garbage" add "and solid waste"

Page 61, line 19: after "garbage" add "and solid waste"

Page 61, line 20: after "garbage" add "and solid waste"

Page 61, line 21: after "garbage" add "and solid waste"

Page 61, line 29: after "garbage" add "and solid waste"

Page 62, line 2: after "garbage" add "and solid waste"

Page 62, line 5: after "garbage" add "and solid waste"

Page 62, line 7: after "garbage" add "and solid waste"

Page 62, line 11: after "garbage" add "and solid waste"

Page 36, line 7: After "ELECTIONS." add the following new matter:
"If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election."

Page 35, line 28: after "who" insert 'is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE.

Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."

Page 124, line 4: after "who" insert "is qualified to vote in state elections and"

Page 124, line 5: delete "of Alaska for one year and"

Page 124, line 7: delete "or meets registration requirements of the municipality"

Page 124, line 8: delete "if any"

Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

Free Conference Committee Meeting - CSSB 113
May 2, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Greg Machyowsky, Legislative Affairs
Marilyn Miller, Alaska Municipal League

The committee approved the amendment conferring mass transit powers upon boroughs and providing for city objections to exclusive area-wide exercise of the powers to be resolved by the Alaska Transportation Commission.

The committee approved the amendments conferring animal, water and air pollution powers upon boroughs.

The committee approved the amendment establishing a borough mayor in manager plan boroughs but revised that part of the amendment withholding veto powers from the mayor and directed that the amendment accord such power.

The committee approved the amendment authorizing senior citizen property tax relief and authorized some revisions in subsection (h) to reflect committee intent that a local government may grant a broader senior citizen exemption than given in the amendment but must assume the additional cost of the exemption without state reimbursement.

The committee approved several technical amendments and authorized Rep. Miller and Sen. Miller to review and approve further technical amendments to adjust code provisions as necessary to reflect and clarify committee policy decisions.

The committee decided to await further Senate action on development cities before deciding whether to include such legislation in the code.

The committee chairman announced that the committee would meet further at the call of the chair.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

Page 17, line 7: Before "first" insert "home rule or"

Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"

Page 15, line 4: Delete "Act"

Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."

Page 22, line 26: After "chairman" insert "or mayor"

Page 22, line 27: After "chairman's" insert "or borough mayor's"

Page 23, line 8: After "is" insert "an elected borough mayor but no"

Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"

Page 23, line 16: Delete "executive" and substitute "chairman or mayor"

Page 24, line 25: After "chairman" insert "or borough mayor"

Page 24, line 29: After "chairman" insert "or borough mayor"

Page 25, line 11: After "chairman" insert "or borough mayor"

Page 60, line 7: After "disposal" insert "subject to sec. 33(a) of this chapter"

Page 61, line 7: After "section" insert "or sec. 33(a) of this chapter"

Page 63, between lines 21 and 22: Insert the following new matter:
"(18) air pollution control as provided in AS 18.30"

Renumber following paragraph.

Page 63, line 29: after "cities." insert the following new matter: "However, as to powers conferred under (a)(5), (17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12: insert the following new matter: "However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

Page 75, between lines 27 and 28, insert the following new matter:
"(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section."

Page 76, between lines 17 and 18, insert the following new matter:
"(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in

accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under this section only the amount of revenue lost to the municipality by reason of the exemption of (e) of this section may be reimbursed to the municipality by the state."

Free Conference Committee Meeting - CSSB 113
May 17, 1972

File Copy

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Marilyn Miller, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sheila Gallagher, Attorney, Greater Anchorage Area Borough
Greg Maconowsky, Legislative Affairs

A draft of the proposed Conference Committee Report summarizing changes in the proposed Free Conference Bill from the provisions of the bills before the committee was presented.

The committee decided to include in the conference report a provision that the report reflects legislative intent, where such intent is consistent with the pertinent code provision. In case of conflict, the code provision would be intended to prevail.

The committee decided to add a definition of "municipal elections" to the code to make clear that such elections include city, borough and school board elections. The committee decided to delete, as unnecessary, the definition of "general election" in the definitions chapter of the code.

The committee decided to delete the code amendment of AS 14.12.050 (Sec. 4 of CSSB 113), thus retaining present law for mandatory three year school terms (rather than setting terms at two years unless other terms up to four years are authorized by ordinance). Sec. 29.23.310 was accordingly directed to be amended, with the reference to "two" deleted and "three" substituted.

The committee approved a proposed amendment to Sec. 29.23.130 (d) making clear that when a newly adopted manager plan of goverment for a borough takes effect, the borough mayor then in office continues to serve his term as borough executive.

In response to a presentation made by Sheila Gallagher, Attorney, Greater Anchorage Area Borough, the committee amended the run-off elections provision of Sec. 29.28.040 to require that the run-off election be held two weeks from the date of certifiention of the initial election.

Technical amendments to recently adopted legislation incorporated in the code, i.e. development cities legislation and legislation relating to involvement of young people in local government, were noted and approved.

The committee requested that a specific check of all Bills sent to the Governor, but not yet signed, be made for possible inclusion in the code, particularly the provisions of CSHB 290, intended to replace

the provisions of Sec. 29.33.170 in the bills before the committee and otherwise to be drafted into the code. It was noted that the special Act incorporating the City of Lost River was not to be included in the code, inasmuch as that Act would be codified under the "Temporary and Special Acts" binder of the Alaska Statutes.

Several amendments clarifying code intent were noted and approved, among them: provisions requesting delegations to hear and decide cases before planning comissions, platting boards and boards of adjustment (Sec. 29.33.245); provision expressly that borough assumption of additional area-wide powers under Secs. 29.33.250 - 29.33.290 precludes city exercise of the powers assumed (Sec. 29.33.010(b)); provision that borough assumption of area-wide transportation powers under Sec. 29.48.030(b) confers exclusive authority to the borough for areawide exercise of the powers unless, as to boroughs not exercising the powers areawide at the time the code takes effect as law, the Alaska Transportation Commission decides otherwise; it was noted also that the power could be assumed through the usual method of assembly petition and public vote; adjustment of provisions of Sec. 29.48.030 (b) to make clear that air pollution control powers, consistent with the provision of AS 18.30, must be exercised by a borough on an areawide basis only.

The committee authorized further technical changes in the bill as necessary to coordinate code provisions, and review of the changes with respective committee chairmen.

Bill Berrier, Attorney of the City and Borough of Juneau, and Sheila Gallagher, Attorney of the Greater Anchorage Area Borough, volunteered to read the final copy of the bill being prepared and offer any technical suggestions which might be thought necessary.

The committee decided to amend the transition section (Sec. 3) of the code to provide for 180 days, rather than 90 days, as the time period, after the code takes effect as law for bringing local ordinances into conformity with code provisions.

The committee decided to meet on Friday, May 19, 1972, 3:30 p.m. to review a draft of the conference committee report summarizing changes made by the committee in the bills before it. It was indicated that the proposed conference bill and report would be ready for distribution on the following Monday. It was also noted that an additional report of the committee would be prepared to offer an overall comparison of the code, represented by the conference bill, with existing law.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
May 17, 1972

Page 127, lines 20-21: Delete all matter.

Page 127, between lines 24 and 25: Insert the following new matter: "municipal election" means an election conducted by a municipality and includes but is not limited to elections for city council members, borough assembly members, school board and utility board members"

Page 129, lines 6-28: Delete all matter (and leave blank). renumber following sections

Page 29, line 9: Delete "two" and substitute "three"

Page 29, lines 10-12: After "office." delete all matter through "incumbent."

Page 129, line 3: Delete "90" and substitute "180"

Free Conference Committee Meeting - CSSB 113
May 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Sheila Gallagher, Attorney, Greater Anchorage Area Borough
Greg Machyowsky, Legislative Affairs
Marilyn Miller, Alaska Municipal League

The committee examined copies of the proposed conference report on the code and approved the report. Advance copies of the prepared conference bill were also circulated.

The committee decided to except from the transitional provisions of Sec. 3 of the code (permitting 180 days after the code takes effect as law for adjustment of local ordinances to code provisions), the election requirement of Sec. 29.28.040, and an amendment accordingly was directed to be inserted in the transition section.

It was indicated that the final prepared copy of the code, together with the conference report, would be available for distribution Monday, May 23, 1972.

CITY OF ANCHORAGE ALASKA

Intercontinental
Polar air crossroads of the world

POST OFFICE BOX 300
ANCHORAGE, ALASKA
99501

February 18, 1972

Honorable Edward A. Merdes
Alaska State Senate
Juneau, Alaska 99801

Dear Ed:

I asked John Spencer, City Attorney, to review Senate Bill No. 316 since its contents indicated it might be a problem to us if applied to Home Rule Cities. A copy of John's review and report to me (memorandum, dated 2-16-72) is attached for your information.

We hope you will consider specifically excluding Home Rule Cities from the provisions of this bill. We feel we now have adequate authority. If the provisions of this bill were made applicable we would have far greater restrictions than we now operate under. We do interim or short term borrowing of all types now without any difficulty.

Sincerely yours,

Robert E. Sharp
City Manager

RES: al
Enclosure

cc: Mr. Don Berry
Mr. Wally Droz
City Attorney
Finance Director

AIRMAIL IS FASTER

City of Anchorage

MEMORANDUM

FEB 17 1972

CITY MANAGER'S OPINION NO. 1023-72

TO: City Manager

DATE: 2/16/72

FROM: City Attorney

SUBJECT: Revenue Anticipation Notes

Friday you requested that I look at Senate Bill No. 316, involving the issuance of revenue anticipation notes by political subdivisions.

It is my opinion that the City should oppose this bill, inasmuch as it is not a required piece of legislation to enable the City of Anchorage to do any borrowing in anticipation of revenues, whether federal, state or otherwise.

There have been several opinions concerning this matter written by this office at various times. The general concensus of those opinions provides that there is authority to issue anticipation notes. The City Charter states:

> "The City shall have the power to borrow money for any specific purpose and to issue its evidences of indebtedness therefor." Sec. 11.1(a)

There are three limitations to the power granted by the Charter. The first appears to be the requirement that money borrowed must be for a specific purpose. The Council resolution authorizing the borrowing of the money could certainly set this specific purpose out. Secondly, the State Constitution provides a limitation wherein we find:

> "The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year but all debts so contracted shall be paid before the end of the next fiscal year." Article IX, Sec. 10.

The third limitation is found in Section 11.1(b) of the City Charter. That section provides that a period of thirty days must elapse from the time of initial Council authorization before the Council can

unilaterally (that is, without electorate consent) enter into financing agreements. Again, that is no severe obstacle to overcome, and is just a matter of watching the time periods.

The notes can contain the wording whereby the security would be in the anticipated revenues from any of various sources, grants-in-aid, federal or state, revenue sharing from the state, bonding or any other anticipated source of income. In the event of failure of the security, the note becomes a general unsecured obligation of the City, unless otherwise set out on the note itself.

Therefore, in summary, it is my opinion that Mr. Merdes' Senate Bill No. 316 is not a requirement for a home rule city or borough and,in fact, would appear to impose more strenuous regulations on the City concerning the anticipation notes.

The first limitation, of course, is the 50% of the amount of anticipated revenue, except in anticipation of State or Federal grants. However, in the issuance of notes in anticipation of State or Federal grants the City would be bound by the requirement of adoption of a long-range capital improvements budget which, so far as the City is concerned would be out of the question, unless we used our capital improvements program forecast as a budget, or the CIP funding for that particular fiscal year as adopted in our annual budget would suffice. However, it is not necessary under our current system to have these particular limitations, and therefore I would not support Mr. Merdes' bill.

John R. Spencer,
City Attorney

JRS:LCM
cc: Mayor Sullivan,
Finance Director

GREATER ANCHORAGE AREA BOROUGH
3500 TUDOR ROAD
POUCH 6-650
ANCHORAGE, ALASKA 99502

February 3, 1972

CHAIRMAN'S OFFICE

CLEAN AIR - CLEAN WATER - A CLEAN COMMUNITY

Free Conference Committee
for House Bill 208 (Municipal Code)
Pouch V
Juneau, Alaska 99801

Dear Committee Members:

I understand that the Governor intends to offer some amendments to the Municipal Code (HB 208). My staff has reviewed the Code and recommends the attached changes. We feel that the recommendations numbered 7, 8, 9 and 11 are the most important.

If the Code is opened up to general and substantive change in free conference, I would appreciate any support you might give in securing these changes.

Respectfully,

For Richard L. Wilson
John M. Asplund
Borough Chairman

JMA:JBW:vp
attachment

SECTION 2. PENDING LEGISLATION WHICH THE BOROUGH BELIEVES SHOULD BE AMENDED

The Greater Anchorage Area Borough Administration requests that the following pending legislation be amended.

(A) Municipal Code

While the Borough favors passage of the Municipal Code, it believes that the following list of amendments are practical and would permit smoother operation under the Code.

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 provides standards for apportionment.

   Problem: We question re-enacting provisions known to be unconstitutional.

2. Sec. 29.23.090(a)(1) provides that an assembly initiated apportionment plan must be submitted to the Local Affairs Agency "for review".

   Problem: The meaning of "for review".

   Recommendation: State that the Agency does or does not have the power to disapprove the plan.

Chapter 28 - Elections

3. Sec. 29.28.015(b) allows one person to serve simultaneously in several offices with only a few restrictions.

   Problem: The advisability of permitting assemblymen or councilmen to sit on lesser bodies is questionable, particularly since the assembly or council often ratifies or acts as an appellate body concerning the decisions of lesser bodies. If you have the same people at different levels, it would seem to diminish your right of appeal.

   Recommendation: Add a provision allowing assemblies and councils to place further limitations on simultaneous office holding.

4. Sec. 29.28.020(a) calls for concurrent state and municipal elections.

Problem: While the goal of concurrent elections may be desirable, there is one immediate practical problem. Until election laws become uniform, it will be necessary for cities, boroughs and the state to each have a separate election board. Getting enough qualified people to man each of these boards on the same election day will be difficult.

Recommendation: Make concurrent elections optional with the municipalities; or, in the alternative, amend Title 15 of the Alaska Statutes so that election judges need not be residents of the precinct in which they function.

5. Sec. 29.28.073 provides that the clerk has 10 days from the filing of an initiative or referendum petition to certify it, and if the petition is insufficient, it may be amended or supplemented within 10 days after the filing date.

ADOPTED 3/23

Problem: If the clerk needs or takes 10 days to check out the petition, all right to amend or supplement it would be extinguished.

Recommendation: The wording should be similar to that of the recall provision and allow the petitioner 10 days from the time of the clerk's rejection in which to amend or supplement the petition.

6. Sec. 29.28.150 provides that a petition to recall a municipal official need only contain signatures equal in number to 15% of the votes cast in the area represented by the official in the last preceding general election for officers.

Problem: Turnout for local elections often runs only about half that for state elections, and fluctuates greatly depending upon what controversial item might happen to be on the ballot. Therefore, the difficulty in exercising the right of recall will vary widely in different years.

Recommendation: Base the percentage of signatures required on the number of registered voters.

7. Sec. 29.33.080 places numerous responsibilities upon planning commissions and Sec. 29.33.245 is an attempt to take some of the pressure off of the commission.

Problem: These sections point out the re-occurring problem of stacking numerous responsibilities on administrative bodies without express provisions that some of the responsibilities may be delegated to other bodies, and that other sub-administrative bodies may be created if necessary. In the past we have used a Board of Examiners and Appeals to handle appeals from administrative decisions and requests for variances. Even then, the Anchorage Planning Commission is overworked. While the hearing officer provisions of Sec. 29.33.245 will provide some relief, we think it desirable to give local legislative bodies more leeway in this area.

Recommendation: Add a provision to the Municipal Code allowing assemblies and councils some flexibility to delegate and re-distribute functions and to establish separate boards as necessary.

8. Sec. 29.33.090(d) provides that "(t)he designation of zoning purposes does not confer police powers upon a borough except as authorized by this title nor does it prohibit cities within the borough from exercising police powers as to those purposes".

Problems: The first part of the subsection seems to be a restatement of the obvious. Giving planning power to a borough does not give the borough general police power. On the other hand, the planning function would include the implied police powers necessary to carry out that function. The "except as authorized" wording of the section might be read to require individual express powers before a borough could act in the various areas of planning and, therefore, restrict a borough from operating with powers which are implied but not expressly authorized by the title.

The second part of the subsection indicates that cities within a borough may enforce planning and zoning ordinances, and raises the question of whether a home rule city could pass and enforce its own planning and zoning ordinances. This again flies in the face of an areawide planning concept.

Recommendation: Eliminate the entire subsection.

9. Sec. 29.33.110(b)(3) provides for appeals from decisions on requests for variances from the planning commission to the board of adjustment.

Problem: This again brings out the problem discussed in Item 7 above. The Greater Anchorage Area Borough uses a board of examiners and appeals to hear requests for variances, and appeals are made directly to the board of adjustment. Article 4 seems to indicate that we could no longer use a body other than the planning commission or its representatives to hear such requests.

Recommendation: As recommended in Item 7 above, add a general provision to the Municipal Code allowing local governments the flexability to delegate and re-distribute functions and to establish separate boards as necessary.

Chapter 53 - Municipal Assessment and Taxation

10. Sec. 29.53.035(c) includes in the definition of "farm use" lands put to a "horticultural use."

Problem: Garden supply and plant stores have been claiming the farm and agricultural reductions.

Recommendation: Exclude the term "horticultural use" from the definition of "farm use."

11. Sec. 29.53.040 classes mobile homes as real property for tax purposes.

Problem: While such a change might help municipalities which don't tax personal property, it will be an administrative nightmare for the other municipalities. The Anchorage Borough would have approximately 8,000 pieces of real property which move, and the burden would be shifted to the Borough to keep track of each. Under the present system the owners must file returns or be subject to prosecution. On the other hand, if trailers are to be treated as realty, the borough will need to find and file on each of them, and a failure to do so would result in the owner not carrying his share of the tax burden.

Recommendation: Make the provision optional.

12. Sec. 29.53.080 permits the assessor to make his own evaluation of property when no return has been filed.

Problem: If the assessor doesn't find the property until after the return should have been filed, the law is unclear as to when penalty and interest provisions apply.

Recommendation: A provision should be added that penalty and interest accrue from the original due date which would have applied had the taxpayer filed a timely return.

13. Sec. 29.53.040 makes it a misdemeanor to file a fraudulent return.

Problem: It is almost always difficult to establish the necessary intent in order to prove fraud. In addition, it is questionable whether a misdemeanor will offer a strong enough deterrent. In the few cases where fraud can be proven, we think it would be desirable to make examples out of the perpetrators of the fraud.

Recommendation: Add a provision whereby the state may prosecute fraudulent returns as a felony rather than the municipalities prosecuting them as misdemeanors.

14. Sec. 29.53.120 provides for correction of errors and omissions in the assessment roll, and for appeals from corrected notices.

Problem: Most municipalities allow 30 days for appeal from errors in assessment rolls. Under Sec. 29.53.120(b) the appeal time would necessarily be extended an extra 30 days, substantially delaying the procedure.

Recommendation: Require all errors to be appealed within 30 days, and if a satisfactory adjustment can be made before the Board of Equalization meets, the appeal could then be dismissed.

15. Sec. 29.53.390 contains provisions for refund of taxes.

Problem: Because of the cost of processing minor refunds, it would be desirable if small overpayments could be ignored.

Recommendation: Add a provision whereby overpayments in the amount of $1.00 or less may be written off unless a specific demand is made for the refund within 30 days.

GREATER ANCHORAGE AREA BOROUGH
3500 TUDOR ROAD
POUCH 6-650
ANCHORAGE, ALASKA 99502

December 7, 1971

DEPARTMENT OF LAW
279-8686

CLEAN AIR * CLEAN WATER * A CLEAN COMMUNITY

Senator Edward A. Merdes
504 Monroe Street
Fairbanks, Alaska 99701

Dear Ed:

Sorry to be so late in responding to your request for additional comments on the Municipal Code. We circulated the Code to all department heads then sifted through their comments to put together a package of suggested amendments. There were many minor comments but the ones in the enclosure are those I felt the most substantive.

If you would like comments on any other provision, I would be happy to oblige as I have a fairly fat file on the subject but thought I'd spare you another ton of paper.

Of course we stand willing to testify or do whatever is necessary to aid you in your consideration of the bill, so feel free to call upon me at any time.

Sincerely,

Sheila Gallagher
Borough Attorney

SG:gv
cc: Senator Terry Miller
Senator John Rader

SECTION II. PENDING LEGISLATION WHICH THE BOROUGH BELIEVES SHOULD BE AMENDED

The Greater Anchorage Area Borough requests that the following pending legislation be amended.

(A) Municipal Code

While the Borough favors passage of the Municipal Code, it believes that the following list of amendments are practical and would permit smoother operation under the Code.

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 provides standards for apportionment.

   Problem: We question re-enacting provisions known to be unconstitutional.

2. Sec. 29.23.090(a)(1) provides that an assembly initiated apportionment plan must be submitted to the Local Affairs Agency "for review".

   Problem: The meaning of "for review".

   Recommendation: State that the Agency does or does not have the power to disapprove the plan.

Chapter 28 - Elections

3. Sec. 29.28.015(b) allows one person to serve simultaneously in several offices with only a few restrictions.

   Problem: The advisability of permitting assemblymen or councilmen to sit on lesser bodies is questionable, particularly since the assembly or council often ratifies or acts as an appellate body concerning the decisions of lesser bodies. If you have the same people at different levels, it would seem to diminish your right of appeal.

   Recommendation: Add a provision allowing assemblies and councils to place further limitations on simultaneous office holding.

4. Sec. 29.28.020(a) calls for concurrent state and municipal elections.

Problem: While the goal of concurrent elections may be desirable, there is one immediate practical problem. Until election laws become uniform, it will be necessary for cities, boroughs and the state to each have a separate election board. Getting enough qualified people to man each of these boards on the same election day will be difficult.

Recommendation: Make concurrent elections optional with the municipalities; or, in the alternative, amend Title 15 of the Alaska Statutes so that election judges need not be residents of the precinct in which they function.

5. Sec. 29.28.073 provides that the clerk has 10 days from the filing of an initiative or referendum petition to certify it, and if the petition is insufficient, it may be amended or supplemented within 10 days after the filing date.

Problem: If the clerk needs or takes 10 days to check out the petition, all right to amend or supplement it would be extinguished.

Recommendation: The wording should be similar to that of the recall provision and allow the petitioner 10 days from the time of the clerk's rejection in which to amend or supplement the petition.

6. Sec. 29.28.150 provides that a petition to recall a municipal official need only contain signatures equal in number to 15% of the votes case in the area represented by the official in the last preceding general election for officers.

Problem: Turnout for local elections often runs only about half that for state elections, and fluctuates greatly depending upon what controversial item might happen to be on the ballot. Therefore, the difficulty in exercising the right of recall will vary widely in different years.

Recommendation: Base the percentage of signatures required on the number of registered voters.+

7. Sec. 29.33.080 places numerous responsibilities upon planning commissions and Sec. 29.33.245 is an attempt to take some of the pressure off of the commission.

Problem: These sections point out the re-occurring problem of stacking numerous responsibilities on administrative bodies without express provisions that some of the responsibilities may be delegated to other bodies, and that other sub-administrative bodies may be created if necessary. In the past we have used a Board of Examiners and Appeals to handle appeals from administrative decisions and requests for variances. Even then, the Anchorage Planning Commission is overworked. While the hearing officer provisions of Sec. 29.33.245 will provide some relief, we think it desirable to give local legislative bodies more leeway in this area.

Recommendation: Add a provision to the Municipal Code allowing assemblies and councils some flexibility to delegate and re-distribute functions and to establish separate boards as necessary.

8. Sec. 29.33.090(d) provides that "(t)he designation of zoning purposes does not confer police powers upon a borough except as authorized by this title nor does it prohibit cities within the borough from exercising police powers as to those purposes".

Problems: The first part of the subsection seems to be a restatement of the obvious. Giving planning power to a borough does not give the borough general police power. On the other hand, the planning function would include the implied police powers necessary to carry out that function. The "except as authorized" wording of the section might be read to require individual express powers before a borough could act in the various areas of planning and, therefore, restrict a borough from operating with powers which are implied but not expressly authorized by the title.

The second part of the subsection indicates that cities within a borough may enforce planning and zoning ordinances, and raises the question of whether a home rule city could pass and enforce its own planning and zoning ordinances. This again flies in the face of an areawide planning concept.

Recommendation: Eliminate the entire subsection.

9. Sec. 29.33.110(b)(3) provides for appeals from decisions on requests for variances from the planning commission to the board of adjustment.

Problem: This again brings out the problem discussed in Item 7 above. The Greater Anchorage Area Borough uses a board of examiners and appeals to hear requests for variances, and appeals are made directly to the board of adjustment. Article 4 seems to indicate that we could no longer use a body other than the planning commission or its representatives to hear such requests.

Recommedation: As recommended in Item 7 above, add a general provision to the Municipal Code allowing local governments the flexability to delegate and re-distribute functions and to establish separate boards as necessary.+

RFC 5 Chapter 53 - Municipal Assessment and Taxation

+10. Sec. 29.53.035(c) includes in the definition of "farm use" lands put to a "horticultural use."

Problem: Garden supply and plant stores have been claiming the farm and agricultural reductions.

Recommendation: Exclude the term "horticultural use" from the definition of "farm use."

+11. Sec. 29.53.040 classes mobile homes as real property for tax purposes.

Problem: While such a change might help municipalities which don't tax personal property, it will be an administrative nightmare for the other municipalities. The Anchorage Borough would have approximately 8,000 pieces of real property which move, and the burden would be shifted to the Borough to keep track of each. Under the present system the owners must file returns or be subject to prosecution. On the other hand, if trailers are to be treated as realty, the borough will need to find and file on each of them, and a failure to do so would result in the owner not carrying his share of the tax burden.

Recommendation: Make the provision optional.

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Problem: If the assessor doesn't find the property until after the return should have been filed, the law is unclear as to when penalty and interest provisions apply.

Recommendation: A provision should be added that penalty and interest accrue from the original due date which would have applied had the taxpayer filed a timely return.

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Problem: It is almost always difficult to establish the necessary intent in order to prove fraud. In addition, it is questionable whether a misdemeanor will offer a strong enough deterrent. In the few cases where fraud can be proven, we think it would be desirable to make examples out of the perpetrators of the fraud.

Recommendation: Add a provision whereby the state may prosecute fraudulent returns as a felony rather than the municipalities prosecuting them as misdemeanors.

+14. Sec. 29.53.120 provides for correction of errors and omissions in the assessment roll, and for appeals from corrected notices.

Problem: Most municipalities allow 30 days for appeal from errors in assessment rolls. Under Sec. 29.53.120(B) the appeal time would necessarily be extended an extra 30 days, substantially delaying the procedure.

Recommendation: Require all errors and omissions to be appealed within 30 days, and if a satisfactory adjustment can be made before the Board of Equalization meets, the appeal could then be dismissed.

+15. Sec. 29.53.390 contains provisions for refund of taxes.

Problem: Because of the cost of processing minor refunds, it would be desirable is small overpayments could be ignored.

Recommendation: Add a provision whereby overpayments in the amount of $1.00 or less may be written off unless a specific demand is made for the refund within 30 days.+RFC 6

BOX 335

CITY OF HOMER

HOMER, ALASKA 99603

February 22, 1972

Mr. Edward A. Merdes
State Senate
State Capitol Building
Juneau, Alaska 99801

Dear Mr. Merdes,

At their meeting, February 14, 1972, the Common Council of the City of HOmer, by a vote of 5 to 0 (with one member absent), voted to support legislation that would give any First Class City, within a Borough, the right to plan, direct and enforce their own zoning. Such action would place the responsibility for zoning on those who are directly affected by it.

Your support of such legislation is encouraged.

Yours truly,

Jack J. Greene

Jack J. Greene
City Manager

JJG/cc

Sen. Rhodes

Don't forget in Finance

Conference Committee:

Position to allow

redistribution of losses

in authorized issues

50% or 100% ?

Joint Educ (Rec Comm)
Rocco Amend

14.050

(d) In the location determinations multiple use of the facilities including but not limited to libraries and recreational activities shall be considered.

(e) The design shall take into consideration multiple utilizations of the school building and school site.

(~~e~~) (f) Providing that multiple use activities os said facilities may be ~~as~~ an assembly designated responsibility of the school board.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

August 2, 1971

M E M O R A N D U M

TO : Senator John Rader, Senate Local Government Committee
Rep. Mike Miller, House Local Government Committee

FROM : Greg Machyowsky, Legislative Counsel

SUBJECT: Incorporation of 1971 Session Laws into proposed municipal code; other minor code amendments

A number of session laws enacted late in the first session of the Seventh Legislature amend existing Titles 7 and 29 and are not subsumed in the latest version of the proposed municipal code which was pending in Senate Rules at the close of the last session. Amendments to incorporate the substance of these session laws are attached; should they not be incorporated into the proposed code and the code is enacted, they will have been repealed from existing laws, since the proposed code repeals existing Titles 7 and 29.

I am attaching also an amendment which should be included with the technical amendments already made to the code. The amendment is minor and only preserves the consistency of distinctions maintained elsewhere in specific code sections as to which provisions bind home rule and general law municipalities under sec. 29.13.100 (pp. 7-8) of the proposed code.

Greg

GM:hg
Enclosures

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page 47, line 23: After "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"

Page 61, between lines 5 and 6, add the following new matter: "preservation, maintenance and protection of historic sites, buildings and monuments"

Page 63, Line 17: After "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"

Page 77, between lines 5 and 6 add the following new matter: "(C) historic sites, buildings and monuments"

AMENDMENT

IN THE SENATE

BY THE LOCAL
GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page 121, line 23: Before "municipality" insert "home rule or general law"

Page 121, line 27: Before "municipality" insert "home rule or general law"

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page 121, line 26: After "07.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

ADOPTED 3/23

MEMORANDUM February 14, 1972

To: Rep. Mike Miller, Chairman
House Local Government Committee

From: Corey Mackaronis

Re: Additional suggested municipal code amendments

Enclosed are the two "optional" amendments I mentioned for inclusion in the Conference report on the code. Both are recommended for technical reasons. With respect to the definition of property provided in one amendment, Bob Dozier or Liz Strandberg of Local Affairs can no doubt provide the background on the request for amendment, which the Local Affairs agency proposed towards the close of last session but did not consider indispensable; a definition of "property", "real property" and "personal property" I believe appeared in versions of the code some years ago but for some reason was subsequently omitted.

The other amendment, while further complicating the transitional provisions of p. 124, lines 14-19 requiring a uniform November local election date, would nonetheless avoid confusion in implementing the new election date and is recommended if the mandatory November election date continues to be retained in the code.

Incidentally, in the technical amendments furnished to you earlier, the first citation, in

the amendment relating to the new line on residue presentation, should read "Page 47, line 23", in place of "Page 49, line 23" as presently reads.

A M E N D M E N T

IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208

Page 123, between lines 18 and 19, add the following new matter:

"(10) "property" means real and personal property;

(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;

(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

renumber the following paragraphs accordingly.

A M E N D M E N T

IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208 (as amended)

Page 124, line 19: Before the period at the end of the sentence add the following new matter:

", except that, in the event the term of a local official elected after the effective date of this Act could under this section expire in November of the same year as the term of a local official elected before the effective date of this Act within the same city or borough, their terms shall nonetheless expire and an election for their successors be held, on the same date, being the regular municipal election date provided before enactment of this title. Their successors shall serve for terms to conform with the provisions of this title. Insofar as the temporary provisions of this section conflict with other provisions of this Act establishing dates of municipal elections and terms of office, the other provisions of this Act are superseded until the temporary provisions of this section have been fully implemented"

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

April 16, 1971

M E M O R A N D U M

TO: Representative Mike Miller

FROM: Greg Machyowsky, Legislative Counsel

SUBJECT: Attached amendments

As requested I've prepared an amendment for CSHB 208 (as amended) setting the regular municipal election date on the first Tuesday in October rather than the Tuesday after the first Monday in November. The amendment is prepared for the Senate. It should be noted that/does not affect the present provision of the bill setting the election every two years at the time of the state election, rather only sets that regular election date in October. Thus, if adopted, the amendment would result in local elections in October every two years, followed by state elections the next month, unless municipalities choose by ordinance to provide for local elections every year on the first Tuesday of October, as under present law. If regular local elections every two years in the off-year of the state election are intended, then the amendments made on pages 35 and 123 in the attached amendment should read:

> Page 35, line 23: Strike "Tuesday after the first Monday in November every even-numbered year" and substitute "first Tuesday of October every odd-numbered year"
>
> Page 123, lines 24 - 25: Strike "Tuesday following the first Monday in November of even-numbered years" and substitute "first Tuesday of October of odd-numbered years"

As indicated, the bill still leaves the option to local governments to provide for an election every year (or even at longer intervals than every two years).

Senator Merdes hasn't specifically requested a Senate amendment to change election dates. I'm furnishing the amendment to you in accordance with your request yesterday to have the amendment ready.

Anotner, shorter amendment, is enclosed, also; it would make a few desirable technical improvements and corrections. If other amendments to the bill are adopted in the Senate, I would recommend that the amendments on the enclosed sheet (for pages 17, 25, 65, 73, 106 and 124 of the bill respectively) be also adopted. The first two,

on page 17, are for clarification only (as now worded the lines seem to contemplate an election only in state election years, whereas elections every year at the option of the local government are also intended). The amendment on page 25 corrects an error; the line in the bill (line 28) erroneously stipulates a general law city council election every year. As to this one amendment, the lengthier amendment to change election dates also includes the correction (in effect deleting the phrase "every year" on page 25, line 28).

The amendments following clear up ambiguity in the use of the term "general" election when "regular" election is meant; the ambiguity developed in the process of integrating existing recently enacted statutes on franchise and property disposal elections into the committee substitute bill. Except possibly for the correction on page 25, none of the amendments would appear to me important enough to complicate or delay passage of the code, and if necessary can be recommended as corrections in the revisor's bill next year. (There undoubtedly will be a number of other minor technical matters cropping up in the course of detailed examination of the committee substitute bill as enacted.)

I've also made a minor technical improvement, at page 124, line 17, making clear that incumbents in office at the time the Act takes effect serve until the October expiration date of their terms, and the elections for immediate successors are held in October, notwithstanding the present provisions for November elections.

Encl.

GM:ic

A M E N D M E N T No. 1

IN THE SENATE

TO: CS FOR SENATE BILL NO. 113

Page 17, line 28: Strike "at the time of the general election" and substitute "on the first Tuesday of October"

Page 18, line 1: Strike ", unless provided otherwise by ordinance"

Page 22, line 29: Strike "Tuesday after the first Monday" and substitute: "first Tuesday of October"

Page 23, line 1: Strike "in November"

Page 25, lines 28 - 29: Strike "every year on the Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 27, lines 12 - 13: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, lines 22 - 23: Strike "municipal election on the Tuesday following the first Monday in November" and substitute "election held on the first Tuesday of October"

Page 35, line 23: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 123, line 24: Strike "Tuesday following the first Monday in November" and substitute "first Tuesday of October"

Page 124, lines 18 - 19: Strike "are elected on the date provided before enactment of this title and"

A M E N D M E N T No. 2

IN THE SENATE

TO: CS FOR HOUSE BILL NO. 208 as amended

Page 17, line 27: Strike "an election" and substitute "a regular election"

Page 17, line 28: Strike "at the time of the general election"

Page 25, line 28: Strike "every year"

Page 65, line 15: Delete "general" and substitute "regular"

Page 73, line 12: Delete "general" and substitute "regular"

Page 106, line 19: After "question" insert "at a regular or special election"

Page 124, line 19: After the period add the following new matter: "Insofar as the temporary provisions of this section conflict with other provisions of this Act relating to municipal elections and terms of office, the other provisions of this Act are superseded until the temporary provisions of this section have been fully implemented."

CS FOR SENATE BILL NO. 1

TITLE 29. MUNICIPAL CORPORATIONS

AN ACT RELATING TO THE REGULATION OF LAND SUBDIVISIONS;

Section 1. AS 29.33.010 is amended to read:

Sec. 29.33.010. DEFINITIONS. Mobile homes, mobile house trailers, [,] recreational and similar property used or intended to be used for residential, office or commercial purposes and placed on the land or connected to water, gas, electric or sewage facilities are structures not properly for tax purposes considered personal property and shall be considered real property. This section does not apply to house trailers and mobile homes while in retail sale lots operated by persons engaged in the business of selling mobile homes.

STATE
of ALASKA

MEMORANDUM

TO: Mike Miller

DATE:

SUBJECT:

FROM: Rick Garnett

On the school design matter we discussed last night I suggest page 44, line 28: after"School buildings" insert something like "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."

I spoke with Bob Thomas about this. I believe he will contact you about the other more controversial question of some assembly control over non school use of school buildings.

02-001A Rev 2-71

HOUSE EDUCATION AMENDMENT

Section (g)

The second sentence in the House Education Amendment AS 14.14.060 (g) is a separate section in the present statute 07.15.330.

Section (h)

AS 14.14.060 (h) of the House Education Amendment is the present language contained in 07.20.140:

07.20.140 Centralized Purchasing - The assembly may provide for centralized purchasing, storage, and distribution of any supplies, material, and equipment for the borough and for its departments; provided, however, school boards within the borough may determine their own separate policy for the purchase of supplies and equipment.

A M E N D M E N T S

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

"* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The borough assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section. This ordinance shall be submitted to an election of the qualified voters in the borough and must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If the ordinance is rejected by the voters, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation standards of the Constitution of the United States.

* Sec. 7. Sec. 6 of this Act takes effect on the effective date of the amendment of the Constitution of the State of Alaska which amends the local government of the constitution relating to representation of cities on borough assemblies."

Amendments to: CSSB 113
By the Free Conference Committee (Cont.)

Page 1, line 7: after "boroughs" and before the period insert:

"; and providing for an effective date"

Page 38, line 24 delete the words, "filing date" and add:

"date on which the petition is rejected as insufficient"

Page 47, line 6: add a new subsection to read:

"(g) The commission may delegate the power to act, to hear and to decide if authorized to do so by ordinance of the assembly."

Page 78, line 22: after the word "agricultural" delete the words "or horticultural"

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller

DATE:

FROM: Rick Garnett

SUBJECT:

To avoid conflict between annexation via the constitutional proceedure and annexation by local action, I suggest the following: page 107, line 18, after "for" insert " initiation of"

Add new paragraph (c) "A boundary change effected under paragraph (a) prevails over a boundary change initiated by local action, without regard to priority in time."

02-001A Rev. 2-71

A M E N D M E N T S

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The borough assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section. This ordinance shall be submitted to an election of the qualified voters in the borough and must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If, at the end of the six-month period, no ordinance has been ratified by the voters, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation standards of the Constitution of the United States.

* Sec. 7. AS 29.23.060(f), (g), (h), (i) and (j) are repealed.

* Sec. 8. Secs. 6 and 7 of this Act take effect on the effective date of the amendment of the Constitution of the State of Alaska which amends

sec. 4, art. X of the constitution relating to representation of cities on borough assemblies or on the date that the Alaska Supreme Court rules that the provisions of sec. 4, art. X of the Constitution of the State of Alaska, relating to the representation of cities on borough assemblies, is in violation of the Constitution of the United States, whichever date occurs first.

Page 61, line 6: add a new paragraph to read:

(21) consumer protection.

Page 107, line 18: after "for" add "initiation of"

Page 107, line 29: add a new subsection to read:

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

Page 28, line 11: delete the words "executive and"

Page 35, lines 28 and 29: after "who" delete "has been a resident of Alaska for one year and" and add: "is a qualified voter of the state and a resident"

Page 57, line 17: add a new subsection to read:

(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.-58.150 - 29.58.350.

ALASKA OUTBOARD SERVICE
Parts - Sales - Repairs
1405 Tongass Avenue
KETCHIKAN, ALASKA 99901

January 25, 1972

Honorable Mike Miller
House of Representatives
Juneau, Alaska

Dear Mike:
As I recall you are the Chairman of the House Local Gov't committee, if I'm wrong I'd still like to offer a suggestion.

I've just finished a three month stint as chairman of a local committee to study the feasibility of Unification for this area, our report was affirmative. I must say at this point that in examining the steps in the procedure for reaching unified local Gov't I was a bit puzzled. It would seem to me that the logical steps would be; One, circulate the petition for the twenty five per cent , two, with the required amount of signatures hold an election for the charter commission, three, when the charter is prepared and examined by the public, then have an election at which time the public would be given the opportunity to vote for or against unification based on whether or not they wanted it as provided for in the charter.

As I understand the statutes on the books the public is required to votefor or against unification without having the charter, which sets out the terms and conditions, before them for examination. It would seem to me that this is asking the voting public to buy a pig in a poke.

I'm sure that our community is no different in the fact that we will encounter most of our opposition from the rural area. These people aren't about to be sold on unification unless they know in advance what that charter is all about.

It seems to me that the law as now written presents unnecessary obstacles to those persons in a community who only wish to fairly and honestly present an opportunity to upgrade and improve their local Gov't.

It is my personal conviction that Unified local Gov't is the way of the future in Alaska, therefore I feel that it is not beneficial that efforts in that direction be hamstrung by poor legislation, if not poor legislation at least it's unecessarily cumbersome.
I'd appreciate your giving this some thought.

Respectfully,

Oral E. Freeman

A M E N D M E N T

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The assembly of a home rule or general law borough shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a federal decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section, if the existing assembly apportionment does not meet the designated standards. The ordinance shall be submitted to an election of the qualified voters in the borough and to be effective must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If, at the end of the six-month period, no ordinance has been ratified, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation

standards of the Constitution of the United States. Determinations and reapportionments made under this section are subject to judicial review for abuse of discretion.

* Sec. 7. AS 29.23.090 is repealed and re-enacted to read:

Sec. 29.23.090. REAPPORTIONMENT. In addition to apportionment at the times required under sec. 20 of this chapter, the assembly of a home rule or general law borough shall provide for its reapportionment whenever, on the basis of U.S. Bureau of Census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in sec. 20 of this chapter. The assembly is required to make the determination, and, if indicated, the reapportionment upon petition of 50 borough voters. The petition must include evidence that the apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or action of the Local Affairs Agency in the manner prescribed in sec. 20 of this chapter. Determinations and reapportionments made under this section are subject to judicial review for abuse of discretion.

* Sec. 8. AS 29.23.060(f), (g), (h), (i) and (j) are repealed.

* Sec. 9. Secs. 6 and 7 of this Act take effect upon the condition and at the time that an amendment to sec. 4, art. X of the Constitution of the State of Alaska, relating to representation of cities on borough assemblies, becomes effective or the Supreme Court of the State of Alaska finds that the provisions of sec. 4, art. X are in violation of the Constitution of the United States, whichever occurs earlier.

A M E N D M E N T

BY THE FREE CONFERENCE COMMITTEE

TO: SCS CSPB 206 am S

Page 124, between lines 19 and 20: Add the following new matter:

* Sec. 4. (a) Other provisions of this Act notwithstanding, the assembly of a first or second class borough which is an incorporated borough on the effective date of this Act shall submit to borough voters at the next regular borough election following the effective date of this Act the question:

"Shall the borough and all cities within it unite to form a single unit of home rule government having the powers, duties and functions of a unified government as provided by law?"

Yes ___ No ___ "

(b) If a majority of borough voters voting on the question approve unification, the assembly shall provide for election of a charter commission at the next regular borough election, or at a special election called by the assembly. The commission shall be nominated and elected and shall prepare, adopt and submit to the voters a proposed unification charter, as otherwise provided in this Act. The provisions of this Act relating to unification otherwise govern unification under this section, except that if a charter submitted by the commission for voter approval is rejected, the commission shall continue to function and submit revised charter provisions until such time as a charter may be ratified.

(c) Nothing in this section prevents initiation of unification proceedings by local option as otherwise provided in this Act at a time subsequent to defeat of unification in an election on the question set forth in (a) of this section.

Renumber subsequent sections accordingly.

A M E N D M E N T

BY THE FREE CONFERENCE COMMITTEE

TO: SCS CSHB 208 am S

Page 80, between lines 26 and 27, add the following new matter:

Sec. 29.53.095. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly.

Page 83, line 9: after "action." add the following new matter: "Either party to the appeal may demand a jury trial."

FAIRBANKS NORTH STAR BOROUGH

Box 1267, Fairbanks, Alaska 99701

April 6, 1972

The Honorable Mike Miller
Alaska House of Representatives
Pouch V, State Capitol Bldg.
Juneau, Alaska 99801

Dear Mr. Miller:

I hastily put my thoughts on statutory reapportionment scheme in a letter to Ed Merdes. Hopefully, I will have more than these skeletal ideas in time for you to act on the municipal code but at least you have some of my thoughts even if in a crude form.

Yours very truly,

James L. Bruce
Borough Attorney

JLB/gc

encl.

FAIRBANKS NORTH STAR BOROUGH

Box 1267, Fairbanks, Alaska 99701

April 5, 1972

The Honorable Edward A. Merdes
Alaska State Senate
Pouch V, State Capital Bldg.
Juneau, Alaska 99801

Dear Ed:

I am working on provisions to expedite unification but want you to have my ideas on apportionment immediately.

The City of Fairbanks suit against the borough seems to be developing into a conflict to determine whether or not city councilmen should sit on borough assemblies. The rural assemblymen argue that the assembly should be composed of members elected at large. The city's position is apparently that it is proper for one man to be elected to both a city council and an assembly seat so long as the city from which he is elected has the requisite population to entitle that population to a seat on the assembly. It is my opinion that the current struggle between the rural and city assemblymen is not so much legal but political.

It is obvious, however, that if assemblymen are not to be elected at large some mechanism for regularly apportioning assemblies must be developed.

At the direction of the borough chairman, John Carlson, I have given some thought to a permanent apportionment scheme other than at large elections for borough assemblies. The following proposal should meet the constitutional requirement of one man/one vote and provide necessary flexibility to meet population changes but still be enacted as a permanent statute.

If assemblymen are to be selected from cities or sections of a borough, I suggest the following might be incorporated into an apportionment statute. (1) Regular reapportionment shall be required after each census, (2) under a plan drafted after a public hearing, (3) by a local entity elected at large and independent of the assembly, (4) but which plan must receive assembly approval, and (5) or if approval is not given a superior court can order reapportionment. Provision is not made for final approval by the electorate because the equal protection clause applies to every citizen and any aggrieved voter can upset an unconstitutional plan even if the plan is approved by majority vote.

The corresponding provisions in the municipal code to the present AS 07.10.040 and AS 07.20.070 should be amended to provide for the following:

Borough assemblymen may be elected at large or from sections. A referendum shall be held to determine the method of electing assemblymen. If the major-

ity of those persons voting favor electing assemblyman from sections, the following provisions shall govern reapportionment.

A person may be elected to hold a seat on a city council and the borough assembly simultaneously.

After each decennial census, of if a census is provided at more frequent intervals, borough assemblies must be reappertioned.

In boroughs under the manager plan, after each census a board of three members elected at large shall be charged to draft reapportion plans for the borough assembly. In boroughs having a borough chairman, the chairman should be charged, by statute, with the duty of formulating plans. Whether by board or chairman, the following steps would be the same.

Immediately after the results of a census were made available, the board or chairman is directed to hold at least one hearing to receive proposals from the public for reapportionment of the borough assembly. After such hearing, or hearings, the board or chairman shall prepare an apportionment plan to be submitted to the assembly. The assembly should receive the plan not less than 120 days prior to the next general borough election. If the results of the census were not known at least 150 days prior to general election, such an election should be postponed until 120 days after the chairman proposed a plan to the assembly.

Thirty days after submission of the board's or chairman's plan to the assembly, the assembly, by resolution, must approve or disapprove the plan and if no action be taken, the plan shall be deemed approved. If the assembly disapproved the plan, the board or chairman shall have 15 days to submit a second plan to the assembly. The assembly must approve or disapprove that plan within 15 days from the date of submission. Failure to act by the assembly shall be deemed approval of the second plan. If the assembly disapproved both plans, the board or chairman is directed by statute, within seven days, to file a complaint in superior court seeking a court order that either the first or second plan be instituted. Any assemblyman or citizen of the borough could answer the complaint requesting amendments to the plan or that a new plan be instituted by the court. The court would be empowered to stay any election for borough assemblymen pending an ordered election. It should be provided that any action of the assembly be valid and binding during any interim or stay periods until an election is held.

Please excuse the rough form of this letter. I sent a copy to Richard Garnett hoping he can put my skeletal ideas in appropriate statutory form.

Because it is usually impossible for a politician to reapportion himself out of office, I suggest that the initial steps for reapportionment be taken from the hands of the assemblymen and placed in an independent entity. It

has been suggested to me that the state should handle reapportionment of local assemblies but it is my opinion that a state agency would have insufficient interest to properly delve into local problems. The borough chairman, or a reapportionment board especially elected for the purpose, seem more appropriate entities to formulate apportionment plans.

Sincerely,

James L. Bruce
Borough Attorney

JLB/gc

cc: Sen. Cliff Grow
Sen. Terry Miller
Rep. Jess Harris
Rep. Mike Miller
Rep. Ed Naughton

A M E N D M E N T

TO: SENATE CS FOR CS FOR HOUSE BILL NO. 208 am S

Page 93, between lines 17 and 18 of CSSB 113:

After the Senate amendment adding subsection (d), add subsection (e) to read:

(e) Purchases made with food coupons issued to low-income persons under the federal Food Stamp Act of 1964, as amended, are exempt from sales taxes levied and collected by an organized borough, whether home rule or otherwise.

Page 94, between lines 11 and 12 of CSSB 113:

Insert a new section to read:

Sec. 29.53.470. EXEMPTION Purchases made with food coupons issued to low-income persons under the federal Food Stamp Act of 1964, as amended, are exempt from sales taxes levied and collected by a city of any class, whether home rule or otherwise.

Unification proposed from John Asplund

Mr. Asplund's specific proposal, in regard to the Greater Anchorage Area Borough, is the unification of governments within Service Area 23 by an election mandated by a legislative resolution. The voters will chose between a first class home rule charter or a second class borough form of government. The remainder of the borough outside Service Area 23 would vote and be tallied separately on its inclusion or exclusion and the type of government desired.

The draft bills would allow organized boroughs and cities contiguous to or within the borough to unify. Unification would be proposed by identical resolutions from the borough assembly and all city councils within the proposed unified area. The resolution would include proposed boundaries, form or forms of government to be placed on the ballot, and the method of distribution of assets and liabilities.

The Local Government Committees of the Legislature would review these resolutions and ascertain whether the unified area met the criteria of Article X, Section 3 of the Constitution. The respective committees would prepare a joint resolution including the requirements of the original resolutions and the form and wording of the ballot to be presented to the affected voters. Within 90 days of passage of the joint resolution, the state shall submit the question(s). The vote shall be tabulated without regard to municipal boundaries. The form of government receiving the majority of votes shall be the new government.

Transitional requirements provide that if an existing form of government is chosen, that government shall be expanded within one year to the new boundaries. Any new form of government will be governed by the state statutes regarding boroughs and cities. Within two years, the new government shall revise, repeal or reaffirm all local government laws in effect at the time of unification. Existing laws will remain in force until superseded.

The right to state and federal funds shall remain intact under unification.

A unified government under this chapter shall have all power granted boroughs and first class cities not prohibited by law or charter.

Submitted by Legal Department
Date submitted _____
Date revised _____
Date resubmitted _____
Date of public hearing _____
Effective date _____

GREATER ANCHORAGE AREA BOROUGH, ALASKA

RESOLUTION NO. 37-72

A RESOLUTION PROPOSING LEGISLATIVE ACTION FOR UNIFICATION

WHEREAS it appears that the best solution to the local governmental problems in the Greater Anchorage Area is some form of unification, and

WHEREAS it appears reasonable for the legislature to provide an alternative approach to the Charter Commission route to unification;

NOW THEREFORE the Greater Anchorage Area Borough Assembly hereby resolves that legislation necessary to carry out the intent of Assembly Memorandum No.72-112 be sent to the legislature for its consideration.

PASSED AND APPROVED BY THE ASSEMBLY OF THE GREATER ANCHORAGE AREA BOROUGH this ___ day of _____, 1972.

_____
Presiding Officer

ATTEST:

_____
Borough Clerk

APPROVED this ____ day of _____, 1972.

_____
Borough Chairman

Alt. A

Introduced:

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: Unification of areas within an organized Borough.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA

Section 1. AS 29.85 is amended by adding a new section .210 to read as follows:

AS 29.85.210 If the legislature receives identical resolutions from a borough assembly and city council of a city of the first class within that borough requesting an adjustment to borough boundaries and an election on a new unified form of government, the legislature may set an election on the question(s) as presented in the resolution, and if election results require, adjust boundaries.

Section 2. This act takes effect

Alternate A

Alt #2

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act Entitled: "Unification of Areas Within Organized Boroughs."

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

CHAPTER 86. UNIFICATION OF AREAS WITHIN ORGANIZED BOROUGHS.

Sec. 29.86.010. _____ authorized. Areas within organized boroughs and cities contiguous thereto or included therein may unite to form a single unit of government by complying with this chapter.

Sec. 29.86.020. Unification to be proposed by resolution. Unification shall be proposed by identical resolutions adopted by the borough assembly and the councils of all cities located within the proposed unified area.

Sec. 29.86.030. The resolution shall include:

1. The proposed boundaries of the new government.

2. The form or forms of government present in the election prescribed in § .050 of this chapter.

3. A method of distribution of assets and liabilities.

Sec. 29.86.040. Review of Resolutions.

a. Resolutions for unification prescribed by Sec. 29.86.030 of this chapter will be reviewed by the Local Government Committees of both houses of the legislature.

b. The Local Government Committees will ascertain if the proposed unified area meets the criteria of Article X, Sec. 3 of the Constitution of the State of Alaska.

Alternate B.

Sec. 29.86.050. Legislative Action.

a. After the review as required under Sec. 29.86.040 of this chapter, the respective Local Government Committees will prepare a joint resolution to be presented to both houses of the legislature setting forth:

a. The proposed boundaries of the unified government.

b. The form or forms of government which will be subject to election in the proposed unified area.

c. The method of distribution of assets and liabilities of the governments being unified.

d. The form of the ballot with the exact wording to be contained thereon. After passage of a valid resolution for unification the State of Alaska shall submit to the voters of the affected area, the questions of whether that portion of the organized borough and all cities within such area as designated by the resolution shall unite to form a single unit of government and the form of government to establish the form of government available for selection shall be only those forms as set out in the resolutions as described in Sec. 29.86.020 of this chapter.

b. The vote shall be held within 90 days after passage of the joint resolution as set forth in § 29.86.040 of this chapter.

c. The ballots on the question of unification and form of government shall be designated in the resolution as passed by both houses of the legislature.

Sec. 29.86.060. Requirements for approval of unification.

(a) The vote shall be tabulated without regard to local municipal boundaries, except as provided on the resolution set out in Sec. 030 of this chapter if more than one form is proposed on the ballot, receiving the majority of the votes, shall be the form of government of the unified area.

Sec. 29.86.070. Transition.

(a) If the form of local government selected is that of an existing government, the laws of that government shall prevail and shall be expanded within one year to effect the new boundaries as required by law.

(b) If the form of government selected is not that of an existing local government within the boundaries of the unified area, then;

If the form is a borough, then the applicable laws in Title 7 and 29 of the Alaska Statutes shall apply;

If the form of government is that of a city, then the applicable statutes as a general law city of the class selected will govern until a charter is adopted pursuant to law.

Sec. 29.86.080. Assets and Liabilities. The assets and liabilities of the unified government created under this chapter shall be distributed as set out in the resolution under Sec. 030 of this chapter.

Sec. 29.86.090. Ordinances. Within two years after ratification of unification, the governing body of the unified municipality shall revise, repeal or reaffirm all borough and city ordinances, resolutions, and orders in force within the borough at the time of unification. Each ordinance, resolution, regulation or order in force at the time of unification shall remain in force until superseded by action of the new governing body.

Sec. 29.86.100. Right to State and Federal Funds Reserved. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to boroughs and cities shall remain in full force and effect with respect to a unified municipality organized under §§ 010-110 of this chapter.

Sec. 29.86.110. Powers of Unified Government. A municipality organized under §§ 010 - 100 of this chapter shall have all powers

(1) not prohibited it by law or charter;

(2) granted to organized boroughs and first class cities.

Effective date of bill is:_____

GREATER ANCHORAGE AREA BOROUGH

ASSEMBLY MEMORANDUM NO. 72-112

TO: BOROUGH ASSEMBLY

MARCH 6, 1972

FROM: BOROUGH CHAIRMAN

SUBJECT: UNIFICATION

After consultation with Mayor George Sullivan, the President and Executive Director of the Chamber of Commerce, it has become increasingly clear that a desirable and timely solution to the local governmental problems in the Greater Anchorage Area is some form of unification.

It is our consensus that unification can only prevail in the Anchorage urban area; therefore, we recommend that the Assembly adopt a resolution endorsing unification of the City and Borough governments in Service Area 23 under certain conditions. Further, we recommend that the State Legislature adopt a bill requiring an election in Service Area 23. In that election, the voters will be asked whether they want to unify Service Area 23 under a first class home rule charter such as the City of Anchorage or a second class borough form of government such as the Greater Anchorage Area Borough. The voters will have the opportunity to reject both propositions and thus defeat the entire concept of unification if they so desire.

We also recommend that the remainder of the Greater Anchorage Area Borough, not included in Service Area 23, vote separately as to its inclusion or exclusion from the new unified government if one is formed and, further, that the voters of this area vote as to the form of government they desire, i.e. first class home rule city charter or second class borough. The votes of other than Service Area 23 will be tallied separately and will not be included with the Service Area 23 votes.

If the voters approve the concept of unification as a first class home rule charter form of government, then, depending upon the outcome of the election by the remainder of the Borough, the boundaries of the new government would be adjusted to conform to the boundaries of the Service Area 23.

For this unification effort to be successful, amendment of the current statutes will be necessary. Two draft bills are attached for your consideration.

Respectfully submitted,

John M. Asplund
Borough Chairman

JMA:SG:lms
Attachments

Revised draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT. (a) The assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (b) of this section.

(c) An ordinance adopted under (a) of this section must to be effective be approved by a majority of borough voters voting on the question in all home rule and first class cities of the borough and

by a majority of borough voters voting on the question outside the home rule and first class cities of the borough. If, at the end of the time period prescribed in (b) of this section, no ordinance providing for assembly reapportionment has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are elected according to assembly composition and apportionment set forth in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

* Sec. 7. AS 29.23.040 is repealed and re-enacted to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs an election is held every two years at the time of the general election to choose assemblymen for two-year terms, unless provided otherwise by ordinance, and until their successors are elected and have qualified. The regular term begins on the first Monday following the regular borough election. The assembly may provide for different terms by ordinance, but they may not exceed four years. The current term of incumbent assemblymen may not be altered. This section applies to home rule and general law boroughs.

* Sec. 8. AS 29.23.050 is repealed and re-enacted to read:

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. If sections for the election of assemblymen have been established, an assemblyman elected from a district who becomes a resident of another district may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

* Sec. 9. AS 29.23.080 is repealed and re-enacted to read:

Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if sections for the election of assemblymen have been established, a resident of the section from which he will serve, to serve until the next regular election.

* Sec. 10. AS 29.23.030, 29.23.060(f), (g), (h), (i), (j) and AS 29.23.-090 - 29.23.100 are repealed.

* Sec. 11. Secs. 6 - 10 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 10 of this Act becomes effective, whichever occurs earlier.

First draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 110, line 28: delete "two propositions" and substitute "proposition"

Page 111, lines 1-17: delete all matter and substitute the following:

Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the _ _ _ _ _ _ _ _ Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

Yes [ ] No [ ]

Page 113, lines 10-11: delete all matter after "question" and substitute the following: "specified in sec. 260(a) of this chapter. The vote shall be held"

Page 113, line 14: delete "of unification"

Page 113, line 15: delete "(1) and (2)"

Page 113, line 17: delete "of unification"

Page 113, line 22: delete "unification" and substitute "the question"

Page 113, lines 25-28: after "for" delete all matter and substitute the following: "the question to be approved, a majority vote in each classification is required.

(b) If the question of forming a charter commission to

prepare, adopt and submit a proposed unification charter to the voters is approved, those charter commission candi-"

Page 116, lines 4-6: after "law" delete "as determined by a plurality of the votes cast at the election held under sec. 320 of this chapter"

Draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 107: After line 29, add the following new matter:

(4) a provision requiring that the assembly of a home rule or general law borough submit the question of exclusion of particular territory from the borough to borough voters in the area sought to be excluded upon presentation to the assembly of a petition for the purpose signed by at least 15 per cent of borough voters residing within the area sought to be excluded and who voted in the last regular borough election held prior to presentation of the petition; exclusion under this paragraph which is approved by a majority of voters voting on the question shall take effect at the reasonable time and upon terms of transitional adjustments necessitated by the exclusion, including but not limited to adjustment of any existing bonded indebtedness and other obligations of the area excluded so as to preserve a fair and equitable burden of taxation, as the assembly or, upon its failure to act, the Local Affairs Agency, prescribes; assembly or Agency actions under this paragraph are subject to judicial review.

(DRAFTING NOTE: This draft is intended to reflect the substance of the proposal for exclusion discussed by the committee at its session of 4/6/72. The draft of the proposal relates largely to current law (The Annexation Act of 1957), which has not been retained in the proposed code. Thus, the redraft here is intended to reflect the substance of the proposal but in the context of Ch. 29.68 of the proposed code (p. 107). It should be noted in addition that there are constitutional aspects of the draft which it is recommended be researched further before final action is taken, should the concept of the proposal be approved initially.)

Revised draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 124, between lines 19 and 20: add the following new matter:

* Sec. 4. (a) Other provisions of this Act notwithstanding, the assembly of a first or second class borough which is an incorporated borough on the effective date of this Act shall submit to borough voters at the next regular borough election following the effective date of this Act the question:

"Shall the borough and all cities within it unite in the manner authorized by law to form a single unit of home rule government having the powers, duties and functions of a unified government?

Yes [ ] No [ ]"

(b) If a majority of borough voters voting on the question approve unification, the assembly shall provide for election of a charter commission at the next regular borough election, or at a special election called by the assembly. The commission shall be nominated and elected and shall prepare, adopt and submit to the voters a proposed unification charter, as otherwise provided in this Act. The provisions of this Act relating to unification otherwise govern unification under this section, except that if a charter, or part of a charter, submitted by the commission for voter approval is rejected,

(1) the commission may prepare, adopt and submit a proposed harter to election in portions only rather than as a proposed completed document, and

(2) the commission shall continue to function and submit revised charter provisions until such time as a charter may be ratified.

(c) Nothing in this section prevents initiation of unification proceedings by local option as otherwise provided in this Act at a time subsequent to defeat of unification in an election on the question set forth in (a) of this section.

Renumber subsequent sections accordingly.

First draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 7, between lines 17 and 18: insert the following new matter:

"(23) AS 29.58.315"

Renumber subsequent paragraphs accordingly

Page 100, between lines 3-4: insert the following new matter:

Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds.

First Draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 107, line 18: after "for" insert "initiation of"

Page 107, line 29: add the following new matter:

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

First Draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S

BY THE FREE CONFERENCE COMMITTEE

Page 83, line 8: After "for" add "and is entitled to,"

Page 83, line 9: After "action." add the following new matter: "Either party to the appeal may demand a jury trial."

(DRAFTING NOTE: The proposed amendment incorporates the provisions of SB 159 which are not already covered in the proposed code.)

(First Draft, 4/11/72)

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 35, line 29: delete "one year" and substitute "30 days"

Page 124, line 4: delete "one year" and substitute "30 days"

MEMORANDUM

State of Alaska
OFFICE OF THE GOVERNOR

TO: Representative Mike Miller
Free Conference Committee
Alaska State Legislature

THRU: Byron I. Mallott
Director
Local Affairs Agency

FROM: S. Robert Dozier
State Assessor

DATE : April 11, 1972

SUBJECT: SCS CS for HB 208
now before the Free Conference
Committee.

The following are four suggested Technical Amendments and Clarification of:
Chapter 53 - Municipal Assessment and Taxation.
Article I - Borough Property Tax.

1. AS 29.53.040 - Mobel Homes.

   Page 79, line 6: Strike [are] and add may be.

   The word "are" demands classification to be real property. May be permits the use of either real or personal property classification.

2. Section 29.53.060 - Full and True Value.

   (a) The assessor of a municipality shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and sections 30,35 and 160 of this chapter. Full and true value is the estimated [amount] price which the property would bring [on] in an open market and under the then prevailing market conditions in a sale [on normal payment terms] between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

3. AS 29.53.120 - (b) Corrections.

   Page 82, line 3: After the word "notice" add a period . and strike all subsequent wording on lines 3 and 4.

   It is presumed that no changes will be made by the assessor without giving reasonable notice prior to the sitting of the Board of Equalization.

4. AS 29.53.140 - Hearing.

   Page 83, line 3: After the word "filed" strike [or] and add and.

   It is presumed that the Board of Equalization may not make valuation adjustments unless proved by a valid written appeal timely filed with the assessor.

PERSONAL OBSERVATIONS AND SUGGESTED AMENDMENTS

1. Section 29.53.025 - Optional Exemptions and Exclusions.

   Page 76, line 25: Strike "$5" and insert "$25".
   Line 26: Strike "$15" and insert "$75".

The tonage tax rate as indicated in this section is obsolete as it was established in 1947. Many home rules municipality which for various reasons have been unable to change from the tonage basis of taxation to the full value assessment concept have abandoned this source of revenue because the tonage rates as authorized by statute do not cover the cost of administration.

2. Section 29.53.030 - Mining Claims.

   Page 77, line 29: Strike "$200" and insert "$1,000".

The assessed value figure of $200 as indicated in this section is obsolete as it was established in 1947. This section was eliminated from Title 14 by an amendment in 1966 which revised a considerable amount of legislation concerning the old independent school districts.

It is obvious that the assessed value of $200 established in the section will not fund the cost to any municipality for the research and listing of unpatented mining claims.

SRD/pls

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 36, line 22: after "election" insert "or the difference between the winning and a losing vote on the result contested is ~~less~~ than two per cent"

(DRAFTING NOTE: A prior amendment adopted in SCS CSHB 208 am S at page 36, line 22, converts the term "reverses" on the line to "fails to reverse".)

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 24, line 20: delete "presiding" and substitute "shall designate an assemblyman to act during his term"

Page 24, line 21: delete "officer shall"

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 56, line 25: after "question" insert "in the borough area outside cities"

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 110, line 20: delete all matter and substitute: "Formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition." and renumber the bills

Page 110, line 22: delete "for"

Page 110, line 23: delete "unification"

Page 110, line 27: delete "UNIFICATION" and substitute "ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER"

Page 112, line 2: delete "for unification"

Page 112, line 9: delete "for unification"

Page 112, line 10: after "chapter," insert "or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter"

Page 113, line 9: delete "for unification" and substitute "or adoption of an assembly resolution for the purpose"

Page 113, line 13: after "petition" insert "or adoption of the resolution"

An assembly resolution for the purpose may be adopted not more often than once every twelve months"

Revised draft, 4/18/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: Add new sections to read:

* Sec. 6. AS 29.18.120(b) is amended to read:

(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city. [PETITIONS TO NOMINATE BOROUGH ASSEMBLYMEN MUST INCLUDE THE SIGNATURE AND RESIDENT ADDRESS OF 50 VOTERS WHO ARE RESIDENTS OF THE PROPOSED BOROUGH IN THE AREA OUTSIDE HOME RULE AND FIRST CLASS CITIES.] Petitions to nominate <u>elected</u> [OTHER] municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality<u>, or that area of the proposed municipality from which the officers are to be elected under the composition and apportionment set out in the accepted incorporation petition</u>.

* Sec. 7. AS 29.18.120(d) is amended to read:

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough

assembly members representing home rule or first class cities [ARE] appointed by the city council [AND] serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

* Sec. 8. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT. (a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. However, except as required in (b) and (d) of this section, assembly composition and apportionment in effect on the effective date of this section may be altered only once at the option of the assembly.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b)(3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval in each classification. If, at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards.

Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

* Sec. 9. AS 29.23.040 is repealed and re-enacted to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected for two-year terms and until their successors are elected and qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs.

* Sec. 10. AS 29.23.050 is repealed and re-enacted to read:

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

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* Sec. 11. AS 29.23.080 is repealed and re-enacted to read:

Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if the assembly seat vacated is other than an at-large seat, a resident of the borough area to which the seat was apportioned, to serve until the next regular election. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, a vacancy in a councilman's seat on the assembly shall be filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

* Sec. 12. AS 29.23.030, 29.23.060(f), (g), (h), (i), (j) and AS 29.23.090 - 29.23.100 are repealed.

Sec. 13. Secs. 6 - 12 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 12 of this Act becomes effective, whichever occurs earlier.

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 64, line 3: after "powers" insert ", except as those code powers relate to flood control,"

Revised Draft, 4/27/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 35, line 28: after "who" insert "is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."

Page 124, line 4: after "who" insert "is qualified to vote in state elections and"

Page 124, line 5: delete "of Alaska for one year and"

Page 124, line 7: delete "or meets registration requirements of the municipality"

Page 124, line 8: delete "if any"

Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 54, line 9, after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12 insert the following new matter:

However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers.

Page 63, line 29: after "cities." insert the following new matter:

However, as to powers conferred under (a)(5) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers.

First Draft, 4/27/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A political subdivision of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a political subdivision may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the political subdivision may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a political subdivision. upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the political subdivision before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the political subdivision may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the political subdivision issuing them.

Page 94, line 29: delete "29.58.040" and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

First Draft, 4/27/72

A M E N D M E N T

TO: SCS CSHB 208 am S

BY THE FREE CONFERENCE COMMITTEE

Page 36, line 7: After "ELECTIONS." add the following new matter:

If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or COUNCIL shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election.

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 17, line 7: Before "first" insert "home rule or"

Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"

Page 15, line 4: Delete "Act"

AMENDMENT

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."

Page 22, line 26: After "chairman" insert "or mayor"

Page 22, line 27: After "chairman's" insert "or borough mayor's"

Page 23, line 8: After "is" insert "an elected borough mayor but no"

Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"

Page 23, line 16: Delete "executive" and substitute "chairman or mayor"

Page 24, line 25: After "chairman" insert "or borough mayor"

Page 25, between lines 9 and 10: Insert the following new matter:

"(c) The borough mayor has no veto power."

Page 25, line 11: After "chairman" insert "or borough mayor"

A M E N D M E N T S

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 63, between lines 21 and 22: Insert the following new matter:

"(18) air pollution control as provided in AS 18.30"

Renumber following paragraph.

Page 63, line 29: after "cities." insert the following new matter:

"However, as to powers conferred under (a)(5)(17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)

Page 61, between lines 11 and 12: insert the following new matter:

"However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

(DRAFTING NOTE: The following provision is recommended as an alternative to the provision set forth in the last two sentences of the above amendment: "Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 75, between lines 27 and 28, insert the following new matter:

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section.

Page 76, between lines 17 and 18, insert the following new matter:

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall

decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects the same or similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting the same or similar exemptions by ordinance as provided in sec. 25 of this chapter. However, a taxpayer qualifying for an exemption under (e) of this section and electing the same or similar exemption for the same tax year under local ordinance is thereby ineligible for the exemption under this section for that tax year.

Technical changes have been made on the following amendments, as approved May 2, 1972:

Page 19, line 1: After "pleasure" insert ", except that in manager plan boroughs the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The borough administrative power is vested in an elected chairman or appointed manager, and the executive power in an elected chairman or, in a manager plan borough, an elected borough mayor who has the same functions as the mayor of a manager plan city under sec. 240 of this chapter."

Technical changes made after May 2, 1972, meeting and approved by Rep. Miller and Sen. Miller:

Page 76, between lines 17 and 18, insert the following new matter after subsection (g):

"(h) Nothing in (e)-(i) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under (e)-(i) of this section only the amount of revenues lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state."

"(i) In (e)-(i) of this section, the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes

(Substitute for (h) as adopted May 2, 1972, p. 93 of book)

The following amendments are in regards to election dates, intervals, and terms of councilmen, assemblymen, mayors and chairmen:

Page 7, lines 28: After ".020" insert "(b)"

Page 17, line 28: Delete "every two years at the time of the general election" and substitute "annually on the first Tuesday of October, unless a different date or interval of election is provided by ordinance,"

Page 17, line 29: Delete "two" and substitute "three"

Page 18, line 1: Delete ", unless provided otherwise by ordinance"

Page 22, line 27: Delete "two" and substitute "three"

Page 22, line 29: Delete "Tuesday after the first Monday" and substitue "first Tuesday of October, unless a different date of election is provided by ordinance"

Page 23, line 1: Delete "in November"

Page 25, lines 28-29: Delete "every year on the Tuesday after the first Monday in November" and substitute "annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance,"

Page 25, line 29: Delete "two" and substitute "three"

Page 27, lines 12-13: Delete "Tuesday after the first Monday in November" and substitute "first Tuesday of October, unless a different date of election is provided by ordinance"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance,"

Page 29, line 20: Delete "Members" and substitute "As determined by ordinance, members"

Page 29, line 21: Delete "as" and substitute "or"

Page 29, lines 22-23: Delete "municipal election on the Tuesday following the first Monday in November" and substitute "election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance"

Page 27, line 24: Delete "elected" and substitute "selected".

Page 35, line 22: Delete "in home rule and general law municipalities"

Page 35, line 23: Delete "Tuesday after the first Monday in November every even-numbered year" and substitute "first Tuesday of October annually"

Page 35, line 24: After "or" insert "on a date of election or"

Page 123, lines 24-25: Delete "Tuesday following the first Monday in November of even-numbered years, or" and substitute "the first Tuesday of October annually, or on an election date or"

Page 124, lines 14-19: After "title." delete all matter.

The following amendment is in regard to delegations of powers by board of equalization:

Page 82, lines 22-25: Delete all matter through"members." on line 25 and substitute the following:

"Sec. 29.53.135. BOARD OF EQUALIZATION. The assembly sits as a board of equalization for the purpose of hearing any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of at least that number of members of the assembly over and above the number required for a quorum to transact business. The board is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings as may be adopted by ordinance, including but not limited to quorum and voting requirements."

(Substitute prior amendment, minutes of March 23, 1972, p. 2, amendment shown at page 82 of notebook)

The following amendment is in regard to selection of acting borough mayor in borough mayor's absence:

Page 24, lines 20-21: Delete "The assembly presiding officer shall" and substitute "The borough chairman or mayor, subject to assembly approval, shall designate a person to"

The following amendments are re. delegations of power by planning commissions, platting board, and board of adjustment:

Page 53, line 29: Delete "HEARING OFFICER" and substitute "DELEGATIONS."

Page 54, lines 2-5: Delete all matter and substitute the following: "or adjustment to delegate powers to hear and decide cases under this chapter in a manner authorized by the ordinance, including but not limited to delegations to one or more members of the commission or board, to other boards or commissions, or to a hearing officer designated by the commission or board. The assembly shall prescribe procedures for hearings and appeals. The commission or board shall hear and decide appeals de novo."

Page 48, lines 17-19: Delete ", but it may delegate by resolution or ordinance part or all of its functions to other borough boards"

Page 48, line 21: After "borough" insert ", subject to sec. 70(b)(1) of this chapter, in addition to making delegations as provided for an assembly under sec. 245 of this chapter."

Technical amendments:

Page 43, line 17: Before "once" insert "conferred in, or assumed by means of secs. 250-290, of this chapter."

Page 61- between lines 11 & 12: In the last sentence of the amendment adopted May 2, 1972 by the Free Conference Committee, delete "or not area-wide" and after "powers" insert "exclusively by the borough area-wide"

Page 13, lines 10-11: after"15.60)." delete all matter and substitute the following: "The state shall pay all election costs under (a)-(c) of this section."

Page 6[illegible], line 29: In the first sentence of the new matter (amendment adopted May 2, 1972) after "or" insert "as to (a)(5) and (17),"

Page 23, line 17: delete "mayor" and substitute "manager"

Page 30, line 12: delete "executive" and substitute "administrator"

Page 30, line 14: delete "executive" and substitute "administrator"

(Technical amendments substituting "borough mayor" for "borough chairman" and related amendments.)

Page 12, line 26: strike "chairman" and substitute "borough mayor"

Page 20, line 21: strike "chairman" and substitute "borough mayor"

Page 22, line 22: after "EXECUTIVE" insert "ANDADMINISTRATOR"

Page 22, lines 23-25: after "(a)" strike all matter and substitute the following: "If the borough has not adopted a manager plan, the borough executive and administrative power is vested in an elected borough mayor. If the borough has adopted a manager plan, the administrative power is vested in an appointed manager and the executive power in an elected borough mayor who has the same functions as those of the mayor of a manager plan city under sec. 240 of this chapter."

Page 22, line 26: strike "chairman" and substitute "borough mayor"

Page 22, line 27: strike "chairman's" and substitute "borough mayor's"

Page 23, line 3: strike "chairman" and substitute "borough mayor"

Page 23, line 5: strike "chairman" and substitute "borough mayor"

Page 23, line 8: strike "chairman" and substitute "borough mayor"

Page 23, line 9: strike "chairman" and substitute "borough mayor"

Page 23, line 14: strike "executive" and substitute "borough mayor or manager as the case may be"

Page 24, line 21: strike "chairman" and substitute "borough mayor" and strike "chairman's" and substitute "borough mayor's"

Page 24, line 25: strike "chairman" and substitute "borough mayor"

Page 24, line 29: strike "chairman" and substitute "borough mayor"

Page 25, line 7: strike "chairman" and substitute "borough mayor"

Page 25, line 11: strike "chairman" and substitute "borough mayor"

Page 125, line 28: in the new matter where "chairman" appears substitute "administrator". After "executive" add "or administrator".

Page 55, line 3: strike "chairman" and substitute "borough mayor"

Page 57, line 1: strike "chairman" and substitute "borough mayor"

Page 69, line 4: strike "municipal executive" and substitute "chief administrator"

Page 115, line 18: after "executive" insert "and administrator"

Page 26, line 23: after "EXECUTIVE" insert "AND ADMINISTRATOR"

Page 26, line 24: after "mayor" insert "as executive"

Page 32, line 26: after "executive" insert "and chief administrator"

Page 23, lines 8-12: after "chairman" delete all matter and substitute the following: "as chief administrative officer. If the manager plan is adopted, it becomes effective following certification of the results of the first regular election occurring at least six months after adoption of the plan. The borough mayor then serves as borough executive."

Page 69, line 4: after "executive" insert "or chief administrator"

Page 1, line 27: after "corporation" insert "and political subdivision"

Page 2, line 2: after "corporation" insert "and political subdivision"

Page 29, line 12: after "years" insert "and not altering the current term of an incumbent"

Page 29, line 26: after "years" insert "and not altering the current term of an elected incumbent"

Page 124, line 23: after "years" insert ", and not altering the current term of an incumbent,"

(Technical amendment relating to transition to code)

Add as last section of bill, or otherwise where appropriate, the following: "The terms of elected officials who are incumbents in office on the effective date of this Act are not affected by this Act. Their terms expire as provided before enactment of this title."

(Technical amendment relating to integration of Chapter 40 SLA 1972 into code -- involvement of young people in local government.)

In Chapter 40 SLA 1972, the term "municipal appointing authority for municipal boards or commisssions" is substituted for the term "assembly" as it appears in subsection (a) of the last section of the chapter, in order to preserve the intended meaning of the section indicated by a reading of subsections (a) and (c) of the last section of the chapter.

(Technical amendments relating to integration of CSSB 405 (Resources)-- enabling legislation for development cities into code.)

At this time (May 17, 1972) CSSB 405 (Resources), the general enabling legislation for development cities has been adopted in both Houses. Since the enabling legislation amends the existing title 29 of the Alaska statutes and that title intent is repealed and reenacted by the code, it is suggested that the provisions of CSSB 405 (Resources) be included in the code. Additional pages for conclusion of the code have been prepared for this purpose. Except for renumbering and a few technical revisions as follows, the provisions are identical to those adopted by the legislature.

At Sec. 29.18.250 (b) (as the provisions are numbered in the code) the citation to sec. 330 is made to correct an apparent erroneous citation in the bill to the previous sec. 320 (sec. 75 of CSSB 405 (Resources)).

At Sec. 29.18.370, the term "executive and administrative" is inserted before the term "city officials" in the last sentence in order to make clear the apparently intended meaning.

At Sec. 29.18.450, the last sentence is added, i.e. "provisions of this chapter prevail over other provision of the title which are inconsistent" to make clear the presumable intent of that section.

With respect to CSSB 406 am, the special act incorporating the development city of Lost River, its provisions do not amend title 29 and it is accordingly thought not necessary to include in the code. If signed into law, the act will appear in the temporary and special acts binder of the Alaska statute. Unless the committee decides otherwise, it will not be included in the additional pages of the code as represented by the conference bill.

(Technical amendment relating to integration of Chapter 41, SLA 1972 into the code -- transition from five man to seven man school boards.)

Chapter 41, SLA 1972, recently signed by the Governor, amends a provision of law amended in the code (page 129 of the proposed conference bill).

It is recommended that the provisions of Chapter 41, SLA 1972 be substituted for the provisions of AS 14.12.050 (b), with the following additions: before "the length" insert ", as three year terms are provided,". The additional term would conform the provision of Chapter 41, SLA 1972 with the code provisions of AS 14.12.050(a) authorizing two year school board terms. If the intent of Chapter 41, SLA 1972, is to require three year terms, then the committee may wish to consider deleting optional authority for a local body to provide two year terms by ordinance.

(Incorporation of HB 423 am, Chapter 40 SLA 1972 in code)

Page 137, line 14: add the following new matter:
"Sec. 17 AS 29.23 is amended by adding new section to read:

Sec. 29.23.395. PURPOSE. It is the intent of secs. 395-401 of this chapter to provide an opportunity for the young people of Alaska to become involved in the institutions and processes of local government comparable to that embodied in legislation under consideration at the First Session of the Seventh Legislature providing for participation in the executive branch of state government.

Sec. 29.23.397. COMMISSION.

(a) The governing body of a municipality may by ordinance establish a commission on the involvement of young people in local government.

(b) The commission may consist of not more than nine members, drawn from fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17 - 22 age group, and shall include women and representatives of minority groups. The members shall be appointed by the governing body in the manner prescribed by ordinance without regard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the governing body as chairman of the commission.

(c) Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by ordinance.

(d) The commission shall establish procedures to enable it to recommend annually to the governing body a group of promising young men and women from whom the governing body may select interns and youth voting members of municipal boards and commissions. The commission, in establishing these procedures, shall enlist the aid of municipal residents who are actively interested in working with young people. Following adoption of the procedures, the commission shall accept applications from persons and nominations for consideration, and shall interview all applicants or nominees.

(e) Recommendations of the commission shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(f) Annually, the commission shall evaluate the program and shall submit a written report to the governing body.

Sec. 29.23.399. INTERNS. An intern may be appointed to serve on the staff of the governing body or the municipal administration for a period of time prescribed by the governing body, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the municipality. Service will begin at a time prescribed by the governing body. Interns shall be appointed without regard to political affiliation. Salaries shall be individually established by the governing body on the basis of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 29.23.401. APPOINTMENT TO MUNICIPAL BOARDS AND COMMISSIONS.

(a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the municipal appointing authority for a municipal board or commission may appoint a 17 - 21 year old municipal resident to the board or commission if recommended by the commission, established in sec. 397 of this chapter.

(b) A young person recommended by the commission may be appointed to a municipal board or commission having special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a municipal board or commission under this section is entitledto the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the governing body when required by law.

(d) No additional seat on a municipal board or commission is created by virtue of secs. 395 - 401 of this chapter.

LAWS OF ALASKA

1972

Source

HB 709

Chapter No.

41

AN ACT

Relating to the terms of office of members of school boards.

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

* Section 1. AS 14.12.050(b) is repealed and re-enacted to read:

(b) When a transition is made from a five-man school board to a seven-man school board, the length of the terms of office for the two new members to be elected shall be determined by lot so that when the terms of office for the two new members are assigned, the terms of office for the entire seven-man board shall be as follows: three members have a three-year term, two members have a two-year term, and two members have a one-year term. A seven-man school board, the terms of office of whose members at the time of transition from a five-man board did not result in terms expiring in the manner provided in this section, may, by resolution adopted by a majority of the members of the board, adjust the terms of office to conform to the schedule for expiration of terms of office provided in this section.

Approved by governor: May 5, 1972
Actual effective date: August 3, 1972

TECHNICAL AMENDMENTS
SUGGESTED FOR INCLUSION IN FCCS SCS CSHB 208

Page 1, line 11: Delete "AS 40.15.070"

Page 49, lines 10 - 19: After "CASES." delete all matter and substitute the following:

(a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of this chapter and if it is not made for the purpose of, or in connection with, a present or projected subdivision development and that no dedication of a street, alley, thoroughfare, park or other public area is involved or required.

Page 127, line 13: Delete ", second, or third" and substitute "or second"

Page 129. lines 6 - 28: Delete all matter and substitute the following [leaving excess space blank if necessary]:

* Sec. 4. AS 40.15 is amended by adding a new section to read:

Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVISIONS. All subdivisions of land made by the state, its agencies, instrumentali

and political subdivisions are subject to the provisions of this chapter and AS 29.33.150 - 29.33.240 and shall comply with local regulations adopted under this chapter and AS 29.33.150 - 29.33.240 in the same manner and to the same extent as subdivisions made by other landowners.

* Sec. 5. AS 29.33.240 is amended by adding a new subsection to read:

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate such streets, alleys, crossings, sidewalks or other public ways as may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in AS 40.15.180 but remains in the city.

[RENUMBER FOLLOWING SECTIONS.]

Page 130, lines 14 - 25: Delete all matter and substitute the following:

* Sec. . AS 40.15.075 is amended to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD CLASS BOROUGHS. The division of lands is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.33.210 - 29.33.240 [SECS. 150 - 180 OF THIS CHAPTER]. Costs of publication and mailing as well as other costs authorized in AS 29.33.210 [SEC. 150 OF THIS CHAPTER] shall be paid to the division

by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division of lands.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 28, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
	Sen. E. Merdes

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sig Strandberg, Local Affairs Agency
Rick Garnett, Assistant Attorney General

Chairman Miller stated that Barry Jackson will present testimony before the committee Thursday evening regarding apportionment.

The committee discussed the amendments Hayden Kaden drew up, as requested at last Thursday's meeting. Senator Miller asked Mr. Kaden to change the last sentence of (b) re. apportionment to read "After six months if no". The committee decided to wait until Barry Jackson made his presentation before taking final action on this.

Senator Miller brought up several policy issues for discussion.

Page 19, line 17 (f) (g) (h) (i) (j) - Senator Miller's view was that in the future weighted voting would be abolished on the basis of whether a measure was area-wide or non area-wide in nature. The committee asked Hayden Kaden to draft an amendment striking this distinction.

Page 22 - Executive Power - Senator Miller felt that in boroughs which adopt the borough manager plan of government, the municipality, nonetheless, should retain a chairman for ceremonial reasons, as much as mayors are presently retained in city-manager-governed cities. Senator Miller will refine his proposal and present it at the next meeting.

Page 107, lines 16 - 19: re. Local Boundary Commission. The committee asked Rick Garnett to draw up an amendment giving the Local Boundary Commission authority in annexations without necessarily having a vote by the people.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 38, line 24: delete the words "filing date" and add: "date on which the petition is rejected as insufficient"

Page 47, between lines 5 and 6: add a new subsection to read:
"(g) The commission may delegate the power to act, to hear and to decide if authorized to do so by ordinance of the assembly."

Page 78, line 22: after the word "agricultural" delete the words "or horticultural"

Page 61, between lines 5 and 6: add a new subsection to read:
"(21) consumer protection"

Page 35, line 28 and 29: strike "for one year"

Page 28, line 11: strike "executive and"

Page 57, between lines 16 and 17: add a new subsection to read:
"(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.58.150 and AS 29.58.350.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 23, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Rick Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Byron Mallott, Director, Local Affairs Agency

Senator Miller received correspondence stating that Vic Fischer and Tom Moorehouse will be able to come the first part of April.

The committee went through the proposed amendments from Greg Machyowsky, City of Anchorage and the Greater Anchorage Borough. All of Greg Machyowsky's amendments were passed by the committee.

The committee's discussion on the Greater Anchorage Borough amendment suggestions are as follows:

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 - Senator Miller suggested apportionment be at borough option with voter referendum to decide how city representatives are chosen, provided it's one-man one-vote. A city would have six months to correct the problem.

2. Sec. 29.23.090 (a) (1) - Senator Groh suggested having the Local Affairs Agency act on mal-apportionment. The committee requested Hayden Kaden to draw up an amendment on the above two sections.

5. Sec. 29.28.073 - The committee asked Hayden Kaden to draw up an amendment to this effect.

7. Sec. 29.33.080 - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden Kaden to draw up an amendment.

8. Sec. 29.33.090 (d) - Referred this section to Greg Machyowsky. The committee asked Bill Berrier to study the utilization of "police power".

9. Sec. 29.33.110 (b) (3) - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden to draw up an amendment.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 44, line 27: after "school buildings." add "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."

Page 47, line 23: after "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"

Page 61, between lines 5 and 6, add the following new matter: "preservation, maintenance and protection of historic sites, buildings and monuments"

Page 63, line 17: after "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"

Page 82, between lines 26 and 27 add:
"(e) The borough assembly sits as a board of equalization for the purpose of hearing in the manner provided for first class cities any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of that number of members of the assembly over and above the number required for a quorum to transact business and is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings in first class cities as may be adopted by ordinance, including but not limited to quorum, and voting requirements."

Page 121, line 23: before "municipality" insert "home rule or general law"

Page 121, line 26: after "09.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 121, line 27: before "municipality" insert "home rule or general law"

Page 123, between lines 18 and 19, add the following new matter:
"(10) "property" means real and personal property;
(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;
(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

Renumber the following paragraphs accordingly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 30, 1972

Members present:

Rep. M. Miller
Rep. J. Harris
Sen. T. Miller

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Hayden Kaden, Legislative Affairs
Barry Jackson, Attorney
Bill Berrier, Attorney, City and Borough of Juneau
Bob Bettisworth, North Star Borough President
Robert Dozier, State Assessor

Barry Jackson testified before the committee regarding apportionment. Detailed written testimony was submitted to the committee for the records.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 11, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Tom Morehouse
Rich Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Roger Huntington, Local Affairs Agency

The committee asked Greg Machyowsky to revise the necessary sections of his amendment re. reapportionment making it clear that a city may appoint its council members to the assembly, provided that equal representation standards are met.

The wording of the ballot proposition re. unification was adopted by the committee. Sen. Merdes offered an amendment requiring that the unification question be placed on the ballot in each borough at the next regular borough election. On hand vote, the amendment failed.

The committee adopted or decided to give further consideration to the following suggestions made by Tom Morehouse:

1. The committee asked Greg Machyowsky to draft an amendment enabling borough assemblies by ordinance to allow the placement of the unification question on the ballot.

2. Page 24, line 20 - 22: The committee asked Greg Machyowsky to draft an amendment to have the borough chairman designate an administrative officer with assembly confirmation to act as chairman during a chairman's temporary absense or disability.

3. An amendment was adopted that a municipality would pay all costs and expenses incurred in a recount when the difference is 2% or less. The committee asked Greg Machyowsky to draw up the necessary language to incorporate it in the code.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 11, 1972

Page 111, line 1 - 17: delete all matter and substitute the following: "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the _____ Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

YES [ ] NO [ ]"

Page 9, line 10: delete "encompasses a trading area with" and substitute "of the area includes the"

Page 42, line 25: delete "two-thirds"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Jim Bruce, Attorney, North Star Borough
Robert Dozier, State Assessor
Greg Machyowsky, Legislative Affairs
Robert Dupere, Consultant for Lost River Mining Co.
Ron Scheardown, Lost River Mining Co.
Pete Walsh, Nome

→ *

Jim Bruce suggested to the committee that page 64, line 4 of the code be amended re. the borough building code authority in relation to flood control. Senator Groh asked Mr. Bruce to draw up an amendment and to give it to Greg Machyowsky for further consideration at the next committee meeting.

Jim Bruce asked the committee to amend Page 82, lines 24 - 26, to include a hearing officer on the Board of Equalization. Greg Machyowsky will draft the amendment.

An amendment suggested by Bob Dozier, State Assessor, (#2 on page 70 of notebook) was adopted by the committee. Greg Machyowsky will draft the amendment for final approval at Thursdays meeting.

* - Was Mr. Miller's comment on the amendment re AS 24.18.120(b) on page 76 of the committee notebook. The amendment attempts to establish one man-one vote while allowing each municipality to compose their Assembly in their own manner.

- Jim Bruce:
Organization of assembly & R-apportionment should be considered as 2 distinct issues.
Organization: The Legislature must establish the basic structural possibilities for organizing assemblies. By referendum, the electorate at large should then choose among the options.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 18, 1972

Page 83, line 2: after "facts" insert "which are"

Page 83, line 5: delete "three" and add "seven"

April 27, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Rich Garnett, Assistant Attorney General

The committee decided to add water pollution control powers as an areawide power which could be acquired at the option of the borough, without the usual procedures for petition and vote. The committee decided to include the air pollution control laws of Title 18 on the same basis.

The committee approved the requested amendment relating to acquisition of mass transit powers areawide by boroughs and the acquisition of areawide animal control powers. With respect to mass transit powers, an additional provision was directed to be inserted calling for the Alaska Transportation Commission to decide the question of acquisition of the areawide powers by the borough if a dispute arises between a city and the borough as to acquisition. The provision would apply only in the case of boroughs not exercising mass transit powers areawide on the effective date of the code.

Senator Groh withdrew his amendment relating to exclusion of territory from boroughs.

The amendments approved for inclusion in the code relating to borough mayors in manager plan boroughs, senior citizen property tax relief, and technical amendments on election dates, delegation of powers by municipal boards and commissions and otherwise are to be drafted for approval as to form at the next meeting or otherwise are to be submitted to Rep. Miller and Sen. Miller for their review.

The committee decided to await the Senate Resources Committee proposals on pending development cities legislation before acting on inclusion of such legislation in the code. The committee declined to include food stamp purchases sales tax exemption provisions in the code.

The committee authorized preparation of a summary of changes represented by the free conference bill from bills approved in both Houses. The committee discussed expanding the summary to include a general summary of code provisions.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

"ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them."

Page 94, line 29: delete "29.58.040"and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

Page 123, line 14: after "corporation" insert "and political subdivision,"

Page 94, line 29: delete "tax"and substitute "revenue"

Page 61, line 14: after "garbage" add "and solid waste"

Page 61, line 17: after "garbage" add "and solid waste"

Page 61, line 19: after "garbage" add "and solid waste"

Page 61, line 20: after "garbage" add "and solid waste"

Page 61, line 21: after "garbage" add "and solid waste"

Page 61, line 29: after "garbage" add "and solid waste"

Page 62, line 2: after "garbage" add "and solid waste"

Page 62, line 5: after "garbage" add "and solid waste"

Page 62, line 7: after "garbage" add "and solid waste"

Page 62, line 11: after "garbage" add "and solid waste"

Page 36, line 7: After "ELECTIONS." add the following new matter: "If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election."

Page 35, line 28: after "who" insert "is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE.

Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."

Page 124, line 4: after "who" insert "is qualified to vote in state elections and"

Page 124, line 5: delete "of Alaska for one year and"

Page 124, line 7: delete "or meets registration requirements of the municipality"

Page 124, line 8: delete "if any"

Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

Free Conference Committee Meeting - CSSB 113
May 2, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Greg Machyowsky, Legislative Affairs
Marilyn Miller, Alaska Municipal League

The committee approved the amendment conferring mass transit powers upon boroughs and providing for city objections to exclusive area-wide exercise of the powers to be resolved by the Alaska Transportation Commission.

The committee approved the amendments conferring animal, water and air pollution powers upon boroughs.

The committee approved the amendment establishing a borough mayor in manager plan boroughs but revised that part of the amendment withholding veto powers from the mayor and directed that the amendment accord such power.

The committee approved the amendment authorizing senior citizen property tax relief and authorized some revisions in subsection (h) to reflect committee intent that a local government may grant a broader senior citizen exemption than given in the amendment but must assume the additional cost of the exemption without state reimbursement.

The committee approved several technical amendments and authorized Rep. Miller and Sen. Miller to review and approve further technical amendments to adjust code provisions as necessary to reflect and clarify committee policy decisions.

The committee decided to await further Senate action on development cities before deciding whether to include such legislation in the code.

The committee chairman announced that the committee would meet further at the call of the chair.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

Page 17, line 7: Before "first" insert "home rule or"

Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"

Page 15, line 4: Delete "Act"

Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."

Page 22, line 26: After "chairman" insert "or mayor"

Page 22, line 27: After "chairman's" insert "or borough mayor's"

Page 23, line 8: After "is" insert "an elected borough mayor but no"

Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"

Page 23, line 16: Delete "executive" and substitute "chairman or mayor"

Page 24, line 25: After "chairman" insert "or borough mayor"

Page 24, line 29: After "chairman" insert "or borough mayor"

Page 25, line 11: After "chairman" insert "or borough mayor"

Page 60, line 7: After "disposal" insert "subject to sec. 33(a) of this chapter"

Page 61, line 7: After "section" insert "or sec. 33(a) of this chapter"

Page 63, between lines 21 and 22: Insert the following new matter: "(18) air pollution control as provided in AS 18.30"

Renumber following paragraph.

Page 63, line 29: after "cities." insert the following new matter: "However, as to powers conferred under (a)(5), (17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12: insert the following new matter: "However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

Page 75, between lines 27 and 28, insert the following new matter:
"(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section."

Page 76, between lines 17 and 18, insert the following new matter:
"(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in

accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under this section only the amount of revenue lost to the municipality by reason of the exemption of (e) of this section may be reimbursed to the municipality by the state."

Free Conference Committee Meeting - CSSB 113
May 17, 1972

File Copy

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Marilyn Miller, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sheila Gallagher, Attorney, Greater Anchorage Area Borough
Greg Machyowsky, Legislative Affairs

A draft of the proposed Conference Committee Report summarizing changes in the proposed Free Conference Bill from the provisions of the bills before the committee was presented.

The committee decided to include in the conference report a provision that the report reflects legislative intent, where such intent is consistent with the pertinent code provision. In case of conflict, the code provision would be intended to prevail.

The committee decided to add a definition of "municipal elections" to the code to make clear that such elections include city, borough and school board elections. The committee decided to delete, as unnecessary, the definition of "general election" in the definitions chapter of the code.

The committee decided to delete the code amendment of AS 14.12.050 (Sec. 4 of CSSB 113), thus retaining present law for mandatory three year school terms (rather than setting terms at two years unless other terms up to four years are authorized by ordinance). Sec. 29.23.310 was accordingly directed to be amended, with the reference to "two" deleted and "three" substituted.

The committee approved a proposed amendment to Sec. 29.23.130 (d) making clear that when a newly adopted manager plan of goverment for a borough takes effect, the borough mayor then in office continues to serve his term as borough executive.

In response to a presentation made by Sheila Gallagher, Attorney, Greater Anchorage Area Borough, the committee amended the run-off elections provision of Sec. 29.28.040 to require that the run-off election be held two weeks from the date of certification of the initial election.

Technical amendments to recently adopted legislation incorporated in the code, i.e. development cities legislation and legislation relating to involvement of young people in local government, were noted and approved.

The committee requested that a specific check of all bills sent to the Governor, but not yet signed, be made for possible inclusion in the code, particularly the provisions of CSHB 290, intended to replace

the provisions of Sec. 29.33.170 in the bills before the committee and otherwise to be drafted into the code. It was noted that the special Act incorporating the City of Lost River was not to be included in the code, inasmuch as that Act would be codified under the "Temporary and Special Acts" binder of the Alaska Statutes.

Several amendments clarifying code intent were noted and approved, among them: provisions requesting delegations to hear and decide cases before planning commissions, platting boards and boards of adjustment (Sec. 29.33.245); provision expressly that borough assumption of additional area-wide powers under Secs. 29.33.250 - 29.33.290 precludes city exercise of the powers assumed (Sec. 29.33.010(b)); provision that borough assumption of area-wide transportation powers under Sec. 29.48.030(b) confers exclusive authority to the borough for areawide exercise of the powers unless, as to boroughs not exercising the powers areawide at the time the code takes effect as law, the Alaska Transportation Commission decides otherwise; it was noted also that the power could be assumed through the usual method of assembly petition and public vote; adjustment of provisions of Sec. 29.48.030 (b) to make clear that air pollution control powers, consistent with the provision of AS 18.30, must be exercised by a borough on an areawide basis only.

The committee authorized further technical changes in the bill as necessary to coordinate code provisions, and review of the changes with respective committee chairmen.

Bill Berrier, Attorney of the City and Borough of Juneau, and Sheila Gallagher, Attorney of the Greater Anchorage Area Borough, volunteered to read the final copy of the bill being prepared and offer any technical suggestions which might be thought necessary.

The committee decided to amend the transition section (Sec. 3) of the code to provide for 180 days, rather than 90 days, as the time period, after the code takes effect as law for bringing local ordinances into conformity with code provisions.

The committee decided to meet on Friday, May 19, 1972, 3:30 p.m. to review a draft of the conference committee report summarizing changes made by the committee in the bills before it. It was indicated that the proposed conference bill and report would be ready for distribution on the following Monday. It was also noted that an additional report of the committee would be prepared to offer an overall comparison of the code, represented by the conference bill, with existing law.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
May 17, 1972

Page 127, lines 20-21: Delete all matter.

Page 127, between lines 24 and 25: Insert the following new matter: "municipal election" means an election conducted by a municipality and includes but is not limited to elections for city council members, borough assembly members, school board and utility board members".

Page 129, lines 6-28: Delete all matter (and leave blank). renumber following sections

Page 29, line 9: Delete "two" and substitute "three"

Page 29, lines 10-12: After "office." delete all matter through "incumbent."

Page 129, line 3: Delete "90" and substitute "180"

Annotated copy of Conf Report

FREE CONFERENCE COMMITTEE REPORT
ON
SCS CSHB 208 am S AND CSHB 208 am
(municipal code)

May 1972

Basic references on points covered:

1. p. 59, Lns 3-4
   p. 62, Lns 2-5
2. p. 125, Lns 26-27
   p. 126, Lns 1-7
3. p. 83, Lns. 27-29
   p. 84, Lns. 1-5
4. p. 55, Lns. 22-25
5. p. 137, Lns 14-19
   thru p. 139, Ln. 17
6. p. 49, Lns. 12-29
   p. 49a, Lns 1-2
   p. 129, Lns 9-16
7. p. 139, Lines 22-29
   thru p. 148, Ln 26

Mr. President
Mr. Speaker

The Conference Committee, with powers of free conference, which has had SCS CSHB 208 am S and CSHB 208 am (municipal code) under consideration, recommends that the bills be replaced by FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208. The Conference bill incorporates the Senate amendments to the House bill, integrates substantively laws pertaining to local government enacted into law in 1971 and enacted or adopted in both houses during the current legislative session. These relate to [1]historic preservation, [2]eminent domain proceedings by fourth class cities, i.e. second class cities under the code, [3]required assembly membership on boards of equalization, [4]borrowing powers of third class boroughs, [5]involvement of young persons in local government, [6]land subdivisions (CSHB 290), [7]and enabling legislation for development cities (CSSB 405 (Res.)). In addition, the Conference bill makes a number of limited substantive changes in the combined legislative product represented by SCS CSHB 208 am S and CSHB 208 am. A brief summary of the changes, keyed to chapter headings of the Conference bill, follows. This report is intended to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

ELECTIONS.

Sec. 29.28.020(a)
p. 35, Lns 20-22

Election Dates. The Conference bill broadens the discretion available to municipalities on the setting of election dates. As with the bills under consideration, the first Tuesday of October is set as the date of the regular municipal election, but the Conference bill authorizes a local government to set a different regular election date by ordinance if it chooses to do so.

Similarly, an annual regular election is set, with the option left to local governments to choose a different interval of years for holding regular elections. In the bills under consideration the same option is made available but an election every two years on the first Tuesday of October is prescribed unless different provision is made by ordinance.

1. Sec. 29.23.040
   p. 17, lines 27-29
   p. 18, " 1-9
2. Sec. 29.23.200(c)
   p. 25, Lines 27-29
   p. 26, Lines 1-5
3. Sec 29.23.250(b)
   p. 27, Lines 4-8
4. Sec. 29.23.130(c)
   p. 22, Lns 28-29
   p. 23, Line 1-5

Terms of Elected Officials. Terms of [1]assemblymen, [2]councilmen, and [3]city and [4]borough mayors are set at three years, rather than two years as provided in the bills under consideration; different terms not exceeding four years may be set by ordinance. (Under present law terms of assemblymen and borough chairmen are the same as those of city councilmen and mayor, respectively, of the largest first class city within the borough, or otherwise three years; different terms not exceeding three years may also

be set by ordinance. City council and mayoralty terms in general law cities may vary from one to three years at local option.)

Terms of incumbents holding office at the time the code takes effect, or in office when an ordinance setting different terms is adopted, are expressly preserved from alteration as a result of the three-year term code provision or local action setting different terms.

Runoffs. The Conference bill provides for automatic runoffs between candidates in municipal elections when no candidate for the respective office receives more than 40 per cent of the vote cast for the office. At the same time, authority is retained in the code for a municipality at its option to require runoffs when a higher plurality is not obtained. Rather than requiring the costs of recount elections to be borne in all cases by the contestant unless the recount reverses the election result, the Conference bill provides for municipal assumption of the cost in cases in which the difference between the winning and losing vote on the result contested is less than two per cent, irrespective of whether or not the election result is reversed.

Municipal Voters. Taking into account the United States Supreme Court's recent opinion on residency for voting purposes, the Conference bill removes the code requirement that a qualified voter for purposes of municipal elections must have been a resident of the state for one year; instead, the bill sets no definite period of required residency but declares that a voter who is eligible to vote in state elections is qualified as well to vote in municipal elections, if he has been a resident of the municipality for at least 30 days immediately preceding the election. (The municipal 30-day requirement is considered invariable under art. V, sec. 1 of the state constitution.)

In addition, the Conference bill removes authority for municipal voter registration systems separate from state voter registration. Registration with the state to vote in state elections will also serve as registration for voting in local elections. In the bills under consideration either state registration or registration under a municipal system would suffice as municipal registration.

Other Provisions.[1] In other Conference bill changes relating to elections, a simple majority rather than two-thirds majority is set as the vote needed to recall an elected municipal official, and with respect to local initiative or referendum petitions,[2] the bill makes clear that, in the event a petition is rejected as insufficient, the petitioners have ten days after the date of rejection to supplement or amend the petition.

Of the election provisions described above, only those relating to municipal voter eligibility and registration are made binding upon home rule municipalities, in both the bills under consideration and the Conference bill.

MUNICIPAL ASSESSMENT AND TAXATION.

Property Tax Assessment. The Conference bill expressly confers the right to trial de novo in the superior court, with jury trial if demanded, of the decision of a borough or city board of equalization on a taxpayer's property assessment. (It thus incorporates the substance of HB 332 and SB 159 pending before the legislature which is not already encompassed in the code.)

1. The bill also makes limited revisions in the definition of full and true value for tax assessment purposes, requires that reevaluations of property, 2. whether of specific classifications or in specific areas of the municipality, be made only in accordance with a systematic plan of reevaluation for all taxable property within the municipality, 3. permits mobile homes to be classified as personal rather than real property at local option, and 4. increases from three to seven the number of days allowed for the municipal board of equalization to certify its actions on tax assessment appeals to the assessor. 5. A definition of real property and personal property is added to the code under general provisions (ch. 78), primarily for purposes of the assessment and taxation chapter.

1. Sec. 29.53.060 (a) p.86, Lns 11-18
2. Sec. 29.53.095 p.81, Lns 22-29
3. Sec. 29.53.040 p.79, Lns 23-29 p.80, Ln. 1
4. Sec. 29.53.140(d) p.84, Lns 12-14
5. Sec. 29.70.810 (13)(10) p.128, Lns 2-5 & Lns 11-13

Exemptions. The Conference bill incorporates the substance of CSHB 296, exempting from city and borough real property taxation the place of abode of residents 65 years age or over who have an annual net taxable income of less than $10,000. Broader senior citizen exemptions granted by local ordinance are not superseded by the provision, but state reimbursement authorized to a local government under the provisions is limited to the amount of tax revenues lost to the local government because of the state-conferred local tax exemption only. As incorporated in the Conference bill, the exemption provided makes clear that mobile homes occupied as a place of abode are within the exemption, whether classified as real or personal property under municipal tax ordinances.

Sec. 29.53.020 (a) p.75, Lns 20 thru 77, Ln. 3

Modified somewhat is a provision in the bills under consideration that municipalities may by ordinance approved by the voters exclude or exempt property from taxation in addition to exclusions or exemptions authorized or permitted in the code. The provision as set out in the Conference bill expressly authorizes partial as well as full exemptions in such cases and limits the exclusions or exemptions to residential property.

Sec. 29.53.025 (a) p.77, Lns 4-7

Like the bills under consideration, provisions of the chapter relating to property taxation are, with a few exceptions, made binding upon home rule as well as general law cities and boroughs.

Sec. 29.13.100 (21) p.8, Lns. 16-17

AREAWIDE BOROUGH POWERS AND DUTIES.

The Conference bill modifies the provisions of present law as well as the bills under consideration as to the vote required on addition of an areawide power by a home rule or general law borough. Rather than overall majority approval of addition of a power areawide, two separate majorities are required: (1) a majority of votes cast in the home rule and first class cities of the borough, taken as a voting unit; and (2) a majority of votes cast in the remaining borough area.

Sec. 29.33.290 (c) p.53, Lns. 9-16

The Conference bill clarifies authority of planning commissions, platting boards, and boards of adjustment in general law cities and boroughs to delegate part or all of their functions to hear and decide cases. Authority is retained from the bills under consideration to delegate to one or more members of the board or commission or to hearing officers, with required review by the full commission or board upon appeal of a decision, these hearing and decision-making functions. In addition, the Conference bill authorizes the governing body to delegate to separate boards or commissions such functions by ordinance or in any other manner authorized by ordinance. The required review by the full commission or board in case of appeal continues to apply under any delegation.

Sec. 29.33.245 p.52, Lns 2-10

P. 131, Lns. 28-31
P. 132., Ln. 1

With respect to design of school buildings, the Conference bill calls for consideration in design of multiple uses for community purposes.

MUNICIPAL OFFICERS AND EMPLOYEES.

Sec 29.23.020
p. 134, line 1
thru 135, Line 21
and
p. 137, Lns 7-14

Borough Assembly Composition and Apportionment. In anticipation of possible legislative action to amend the state constitution or of a state supreme court decision to invalidate existing provisions of law which apportion borough assemblies between city and outside-city assemblymen and require use of the weighted vote under that apportionment, the Conference bill inserts a conditional section binding upon home rule and general law boroughs and having the following features:

(1) a borough assembly may provide by ordinance (or home rule borough charter may provide) for a number of assemblymen and assembly apportionment in any manner consistent with the equal representation standards of the federal constitution;

(2) the proposed borough apportionment ordinances must be submitted for separate voter approval by two majorities: (a) a majority of votes cast in all first class and home rule cities, and (b) a majority of votes cast in the borough area outside those cities.

(3) within six months of the effective date of the section and thereafter within six months of each federal decennial census, as well as at any other time when equal representation standards may no longer be met, the assembly must make a finding as to compliance with the equal representation apportionment standards and, if indicated, prepare and submit to the voters in the manner described in (2) an ordinance revising the apportionment and, if the assembly chooses, the number of members composing the assembly;

(4) the Local Affairs Agency is directed to make a reapportionment when a proposed reapportionment ordinance is not approved by the voters;

(5) the right to judicial review of both assembly and agency determinations is expressly provided for under the section.

The apportionment section is to take effect only upon condition that the provisions of art. X, sec. 4 of the state constitution relating to assembly representation are compatibly amended or that those provisions as they relate to city representation on the borough assembly are held to be in violation of the federal constitution by the state supreme court.

While the section sets out specific times at which the assembly is required to examine its apportionment, the section is intended as well to permit an assembly at its option to propose a change in assembly composition or apportionment, notwithstanding that existing apportionment may satisfy equal protection standards. All changes in assembly composition and apportionment, whether by ordinance or Local Affairs Agency action under the section, are effective beginning with the next regular assembly election. In the event the conditions upon which the provisional section is to become effective do not occur, the code retains the present provisions of borough law relating to assembly composition and apportionment.

1/ Sec 29.23.130(a) & (b)
(a) p. 22, lns 22-27

1/ Borough and City Executive. In boroughs which adopt a manager plan, the code establishes an office of borough mayor, paralleling in concept the retention in the code and present law of the

office of mayor in cities which have adopted city manager plans. The borough mayor's official functions are the same as those of the mayor as city chief executive in manager cities, i.e. presiding at governing body meetings, serving as municipal ceremonial head, and signing official documents. Under present law, manager plan boroughs have no elected executive office, and the office of manager combines the executive and administrative roles.[2] Like present borough chairmen in boroughs which have not adopted a manager plan, the borough mayor is elected areawide, and has no vote on the assembly but may veto most assembly actions.[3] Unlike the borough chairman, who serves as both executive and chief administrator of the borough, the borough mayor is designated as executive of the borough, with the functions noted above, but functions as chief administrator remain with the manager.

Sec. 29.23.130(b)
2. (b)
p. 22, ln. 27
Sec. 29.23.160 to 170
p. 24, ln. 25 thru p. 25, ln. 9
3. Sec. 29.23.130(a)
p. 22, lns. 22-26

While preserving the differences in functions between borough chairmen in non-manager plan boroughs and borough mayors in manager plan boroughs, the Conference bill substitutes the title "borough mayor" for "borough chairman" in non-manager plan boroughs as well as employing the same title to describe the newly established office for manager plan boroughs. Use of the identical term in both cases is intended to avoid confusion in reference to borough executives.

Sec. 29.23.130(a)
p. 22, lns. 22-26

In manager plan cities, as with manager plan boroughs, the Conference bill denotes the mayor as chief executive and the manager as chief administrator; the bills under consideration designate the manager as both, while assigning functions to preside at council meetings, serve as ceremonial head, and sign documents, to the mayor.

Sec. 29.23.240
p. 26, lns. 24-25

It should be noted the designation of the mayor as executive and the manager as administrator, as with the borough mayor and manager, is not intended to confer powers upon the respective officials independently of those otherwise expressly conferred in the bill. Moreover, a number of code sections have required amendment, with the term "administrator" or "chief administrator" being added to, or substituted for, the term "executive". These changes are intended in all cases but one to be technical changes only, reflecting the separation in roles of executive and chief administrator which the Conference bill formalizes in manager plan cities and boroughs.[4] The exception concerns sec. 29.48.150 in which the power to introduce ordinances, conferred in the bills under consideration to assembly or council members or committees and the municipal executive, is broadened to include the borough or city chief administrator. The addition has the effect of preserving the authority of borough and city managers, as the "municipal executive" under existing law, to introduce ordinances and extends the authority as well to the elected mayors in manager plan boroughs and cities.

1. Sec. 29.45.150(a)
p. 65, lns. 3-4

Another modification of the Conference bill authorizes the borough executive (mayor) with assembly approval to designate a person to serve as mayor in case of his temporary absence or disability. Current law and the bills under consideration require the assembly presiding officer (or his designee, under current law) to act as temporary chairman in all cases.

Sec. 29.23.150
p. 24, lns. 19-24

The changes noted above relating to the city and borough executive and administrator are binding on general law, but not home rule, municipalities.

ALTERATION OF BOUNDARIES.

Sec. 29.65.260 (a) p. 114, lns 27 thru p 115, ln 10

In relation to unification of a borough and cities within it as a single unit of home rule local government, the Conference bill rewords the question submitted to voters at the first election to determine whether a unification commission should be elected to prepare a proposed unification charter for voter approval at a second election. Rather than submit the question, as under current law and the bills under consideration, "Shall the .....Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and a majority vote from the remaining area composed of all first class and home rule cities of the borough?", the Conference bill poses to the voters the simpler and more limited question, "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the ..... Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?".

The revised wording of the ballot question for the first election reflects the conclusion that as a practical matter the question of unification is decided at the time of the second election, i.e. the election on the charter prepared by the elected unification charter commission. The preference poll, authorized under current law and the bills under consideration, as to the name of the unified government should one be formed is omitted as a ballot question in the Conference bill.

Sec. 29.65.250 (c) p. 114, lns 20-24

The Conference bill, in addition, authorizes an assembly resolution as an alternative means to a petition for placing the question of formation of a unification charter commission on the ballot.

Sec 29.65.010(c) p. 112, lns. 1-3

The Conference bill expressly provides that boundary changes made by the state Local Boundary Commission under its direct constitutional authority (art. X, sec. 12 of the state constitution) prevail over boundary changes initiated by local action. Both under current statutes and the bills under consideration this principle seems presumed but is not expressly stated.

MUNICIPAL DEBT.

Sec. 29.58.315 p. 104, lns. 3-8

The Conference bill specifies the municipal governing body or its designee in both home rule and general law municipalities as the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range municipal financial planning which leads to the sale of bonds. The provision does not affect the governing body's authority to contract, or to delegate its authority to contract, the services of other professional consultants.

Sec. 29.58.010 - .140 p. 97, ln 1 thru p 100, ln. 10

Other provisions of the Conference bill broaden code provisions on issuance of tax anticipation notes to include notes issued in anticipation of revenues generally (the power to borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year being specifically conferred upon political subdivisions under art. IX, sec. 9 of the state constitution). The specific revenue anticipation note authority conferred in the bill derives from SB 316 currently before the legislature.

INCORPORATION.

Sec. 29.18.030 (3) p. 8 line 15-19 (compare present AS 07.10.030 (3)) Boroughs. The Conference bill eliminates the requirement that an area proposed for borough incorporation must encompass a trading area. The reference was not considered clear as to meaning or necessary in the context of other broad standards of incorporation set out in the code.

POWERS APPLICABLE TO ALL MUNICIPALITIES.

1. Sec. 29.48.310 p. 73, lns. 23-25 2. Sec. 29.48.035 (a) (5) p. 61, ln. 18 3. Sec. 29.48.035 (a) (17) p. 62, ln. 9 Sec. 29.48.020 (6) p. 58, ln. 5 4. Sec. 29.48.030 (a) (22) p. 59, ln. 5

The Conference bill adds several powers to those which general law cities and boroughs are authorized to exercise under this chapter.[1] Like most other powers listed in the chapter, the powers are designated in general terms; a liberal construction is subsequently provided for (in accordance with art. X, sec. 1 of the state constitution). Specifically,[2] animal control and[3] water pollution control powers are added. Also added are[4] consumer protection powers, intended to include regulatory as well as other methods of consumer protection services, without restricting powers to regulate particular activities elsewhere in the code, particularly at sec. 35 of the chapter.

Sec. 29.48.035(6) p. 62, lns. 13-29 Sec. 29.48.020 (2)(6) p. 58, lns 27-25 p. 58 ln 5 # (compare present AS 07 15 360)

Unlike consumer protection and most other powers enumerated in the chapter as to boroughs, the animal control and water pollution control powers are added to a limited category of powers which under existing law may be exercised in the borough area outside cities, or areawide, at the option of the borough and without the usual prerequisites of petition and voter approval for exercise of the power. As under existing law, city exercise of the powers once they are exercised areawide by the borough is preempted unless the borough ordinance assuming the powers provides otherwise or subsequently the borough ceases to exercise the power.# Dog control powers are presently authorized areawide and in the borough areas outside cities in the manner described; the Conference bill expands the present authority to include animal control generally. As to water pollution control, the Conference Committee considered authorizing water pollution control facilities and services on an areawide basis (under sec. 29.48.030) but decided exercise of such authority by the borough should be subject to prior petition and vote of the people, in the usual manner for acquisition of areawide powers; the water pollution authority granted, accordingly, is only regulatory in nature./ The grant of water pollution authority to second class boroughs in the area outside cities encompasses both regulatory functions and authority to provide public facilities and services.

Sec. 29.48.020 (6) p. 58, ln. 5

Sec. 29.48.030 (b) p. 59, lns. 6-23

With respect to existing authority in the bills under consideration for municipal transportation system facilities and services, the Conference bill adds that power to the limited category of powers which may be exercised areawide or in the borough area outside cities at the option of the borough and makes areawide exercise of the power exclusive of city exercise within the borough. However, with respect to general law boroughs which are not exercising the power on the effective date of the code, a city objecting to assumption of the power areawide is entitled to review of the question by the Alaska Transportation Commission, and the commission is to decide in the particular case whether or not borough exercise of the power areawide is in the public interest. Should the commission decide in the negative, city exercise within the city and borough exercise in the area outside cities would be authorized, subject to areawide assumption by the borough of the power in the usual manner of petition

Sec. 29.48.050 p.63, Ln. 29 thru p.64, Line 19

and areawide vote. The power conferred to provide transportation systems and facilities is in addition to power conferred elsewhere in the code for municipal franchising of bus transportation systems.

Sec. 29.48.033 p.59, Line 23 thru p.61, Line 6. Note also: Sec. 29.48.03:(b) p.59, Lns 6-12

The bills under consideration incorporate provisions of existing law which give some detail on municipal powers relating to establishment, maintenance and operation of garbage collection and disposal systems. The Conference bill retains those provisions and adds solid waste collection and disposal to their terms. Garbage and solid waste collection and disposal are viewed as largely interrelated activities.

Sec. 29.48.035(c) p.62, Ln. 24 thru p.63, Ln. 11 & note p.63, Lines 2-3

The Conference bill makes special provision on areawide exercise of building, housing or related code powers, but only with respect to flood control, so as to preserve eligibility for federal flood control aid in those boroughs presently exercising areawide flood control powers.

Pg. 128, Lns 1 thru Pg. 128, Ln. 8

In code transitional provisions, the Conference bill increases from 90 to 180 days after the effective date of the code the time period assigned to local governments for conforming local ordinances as necessary with the code, except for the provisions of AS 29.28.040 relating to runoff elections in general law cities and boroughs; these supersede conflicting provisions of local ordinances at the time the code takes effect as law.

In addition to the substantive changes summarized above, the Conference bill incorporates technical changes to coordinate the substantive changes made with other code sections affected, to insure that existing provisions of law not substantively changed by the code are retained, and otherwise to refine wording of code provisions.

Senate Members	House Members
Senator Terry Miller, Chmn.	Representative Mike Miller, Chmn.
Senator Edward A. Merdes	Representative Edward Naughton
Senator Clifford Groh	Representative Jess Harris

FCC Notebook

Volume 1

FCC Bill, Report & Supplemental Report

V O L U M E 1

JOINT SENATE AND HOUSE
FREE CONFERENCE COMMITTEE MEETINGS

(CS for SENATE CS for CS for HOUSE BILL NO. 208)

ALASKA LOCAL GOVERNMENT

ACE 585002

"FREE CONFERENCE COMMITTEE REPORT
ON
SCS CSHB 208 am S AND CSHB 208 am
(municipal code)

May 22, 1972

Mr. President
Mr. Speaker

The Conference Committee, with powers of free conference, which has had SCS CSHB 208 am S and CSHB 208 am (municipal code) under consideration, recommends that the bills be replaced by FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208. The Conference bill incorporates the Senate amendments to the House bill, integrates substantively laws pertaining to local government enacted into law in 1971 and enacted or adopted in both houses during the current legislative session. These relate to historic preservation, eminent domain proceedings by fourth class cities, i.e. second class cities under the code, required assembly membership on boards of equalization, borrowing powers of third class boroughs, involvement of young persons in local government, land subdivisions (CSHB 290), and enabling legislation for development cities (CSSB 405 (Res.)). In addition, the Conference bill makes a number of limited substantive changes in the combined legislative product represented by SCS CSHB 208 am S and CSHB 208 am. A brief summary of the changes, keyed to chapter headings of the Conference bill, follows. This report is intended to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

ELECTIONS.

Election Dates. The Conference bill broadens the discretion available to municipalities on the setting of election dates. As with the bills under consideration, the first Tuesday of October is set as the date of the regular municipal election, but the Conference bill authorizes a local government to set a different regular election date by ordinance if it chooses to do so.

Similarly, an annual regular election is set, with the option left to local governments to choose a different interval of years for holding regular elections. In the bills under consideration the same option is made available but an election every two years on the first Tuesday of October is prescribed unless different provision is made by ordinance.

Terms of Elected Officials. Terms of assemblymen, councilmen, and city and borough mayors are set at three years, rather than two years as provided in the bills under consideration; different terms not exceeding four years may be set by ordinance. (Under present law terms of assemblymen and borough chairmen are the same as those of city councilmen and mayor, respectively, of the largest first class city within the borough, or otherwise three years; different terms not exceeding three years may also be set by ordinance. City council and mayoralty terms in general law cities may vary from one to three years at local option.)

Terms of incumbents holding office at the time the code takes effect, or in office when an ordinance setting different terms is adopted, are expressly preserved from alteration as a result of the three-year term code provision or local action setting different terms.

Runoffs. The Conference bill provides for automatic runoffs between candidates in municipal elections when no candidate for the respective office receives more than 40 per cent of the vote cast for the office. At the same time, authority is retained in the code for a municipality at its option to require runoffs when a higher plurality is not obtained. Rather than requiring the costs of recount elections to be borne in all cases by the contestant unless the recount reverses the election result, the Conference bill provides for municipal assumption of the cost in cases in which the difference between the winning and losing vote on the result contested is less than two per cent, irrespective of whether or not the election result is reversed.

Municipal Voters. Taking into account the United States Supreme Court's recent opinion on residency for voting purposes, the Conference bill removes the code requirement that a qualified voter for purposes of municipal elections must have been a resident of the state for one year; instead, the bill sets no definite period of required residency but declares that a voter who is eligible to vote in state elections is qualified as well to vote in municipal elections, if he has been a resident of the municipality for at least 30 days immediately preceding the election. (The municipal 30-day requirement is considered invariable under art. V, sec. 1 of the state constitution.)

In addition, the Conference bill removes authority for municipal voter registration systems separate from state voter registration. Registration with the state to vote in state elections will also serve as registration for voting in local elections. In the bills under consideration either state registration or registration under a municipal system would suffice as municipal registration.

Other Provisions. In other Conference bill changes relating to elections, a simple majority rather than two-thirds majority is set as the vote needed to recall an elected municipal official, and with respect to local initiative or referendum petitions, the bill makes clear that, in the event a petition is rejected as insufficient, the petitioners have ten days after the date of rejection to supplement or amend the petition.

Of the election provisions described above, only those relating to municipal voter eligibility and registration are made binding upon home rule municipalities, in both the bills under consideration and the Conference bill.

MUNICIPAL ASSESSMENT AND TAXATION.

Property Tax Assessment. The Conference bill expressly confers the right to trial de novo in the superior court, with jury trial if demanded, of the decision of a borough or city board of equalization on a taxpayer's property assessment. (It thus incorporates the substance of HB 332 and SB 159 pending before the legislature which is not already encompassed in the code.)

The bill also makes limited revisions in the definition of full and true value for tax assessment purposes, requires that reevaluations of property, whether of specific classifications or in specific areas of the municipality, be made only in accordance with a systematic plan of reevaluation for all taxable property within the municipality, permits mobile homes to be classified as personal rather than real property at local option, and increases from three to seven the number of days allowed for the municipal board of equalization to certify its actions on tax assessment appeals to the assessor. A definition of real property and personal property is added to the code under general provisions (ch. 78), primarily for purposes of the assessment and taxation chapter.

Exemptions. The Conference bill incorporates the substance of CSHB 296, exempting from city and borough real property taxation the place of abode of residents 65 years age or over who have an annual net taxable income of less than $10,000. Broader senior citizen exemptions granted by local ordinance are not superseded by the provision, but state reimbursement authorized to a local government under the provisions is limited to the amount of tax revenues lost to the local government because of the state-conferred local tax exemption only. As incorporated in the Conference bill, the exemption provided makes clear that mobile homes occupied as a place of abode are within the exemption, whether classified as real or personal property under municipal tax ordinances.

Modified somewhat is a provision in the bills under consideration that municipalities may by ordinance approved by the voters exclude or exempt property from taxation in addition to exclusions or exemptions authorized or permitted in the code. The provision as set out in the Conference bill expressly authorizes partial as well as full exemptions in such cases and limits the exclusions or exemptions to residential property.

Like the bills under consideration, provisions of the chapter relating to property taxation are, with a few exceptions, made binding upon home rule as well as general law cities and boroughs

AREAWIDE BOROUGH POWERS AND DUTIES.

The Conference bill modifies the provisions of present law on addition of an areawide power by a home rule or general law borough. Rather than overall majority approval of addition of a power areawide, two separate majorities are required: (1) a majority of votes cast in the home rule and first class cities of the borough, taken as a voting unit; and (2) a majority of votes cast in the remaining borough area.

The Conference bill clarifies authority of planning commissions, platting boards, and boards of adjustment in general law cities and boroughs to delegate part or all of their functions to hear and decide cases. Authority is retained from the bills under consideration to delegate to one or more members of the board or commission or to hearing officers, with required review by the full commission or board upon appeal of a decision, these hearing and decision-making functions. In addition, the Conference bill authorizes the governing body to delegate to separate

boards or commissions such functions by ordinance or in any other manner authorized by ordinance. The required review by the full commission or board in case of appeal continues to apply under any delegation.

With respect to design of school buildings, the Conference bill calls for consideration in design of multiple uses for community purposes.

MUNICIPAL OFFICERS AND EMPLOYEES.

Borough Assembly Composition and Apportionment. In anticipation of possible legislative action to amend the state constitution or of a state supreme court decision to invalidate existing provisions of law which apportion borough assemblies between city and outside-city assemblymen and require use of the weighted vote under that apportionment, the Conference bill inserts a conditional section binding upon home rule and general law boroughs and having the following features:

(1) a borough assembly may provide by ordinance (or home rule borough charter may provide) for a number of assemblymen and assembly apportionment in any manner consistent with the equal representation standards of the federal constitution;

(2) the proposed borough apportionment ordinances must be submitted for separate voter approval by two majorities: (a) a majority of votes cast in all first class and home rule cities, and (b) a majority of votes cast in the borough area outside those cities.

(3) within six months of the effective date of the section and thereafter within six months of each federal decennial census, as well as at any other time when equal representation standards may no longer be met, the assembly must make a finding as to compliance with the equal representation apportionment standards and, if indicated, prepare and submit to the voters in the manner described in (2) an ordinance revising the apportionment and, if the assembly chooses, the number of members composing the assembly;

(4) the Local Affairs Agency is directed to make a reapportionment when a proposed reapportionment ordinance is not approved by the voters;

(5) the right to judicial review of both assembly and agency determinations is expressly provided for under the section.

The apportionment section is to take effect only upon condition that the provisions of art. X, sec. 4 of the state constitution relating to assembly representation are compatibly amended or that those provisions as they relate to city representation on the borough assembly are held to be in violation of the federal constitution by the state supreme court.

While the section sets out specific times at which the assembly is required to examine its apportionment, the section is intended as well to permit an assembly at its option to propose a change in assembly composition or apportionment, notwithstanding that existing apportionment may satisfy equal protection standards. All changes in assembly composition and apportionment, whether by ordinance or Local Affairs Agency action under the section, are effective beginning with the next regular assembly election. In the event the conditions upon which the provisional section is to become effective do not occur, the code retains the present provisions of borough law relating to assembly composition and apportionment.

Borough and City Executive. In boroughs which adopt a manager plan, the code establishes an office of borough mayor, paralleling in concept the retention in the code and present law of the office of mayor in cities which have adopted city manager plans. The borough mayor's official functions are the same as those of the mayor as city chief executive in manager cities, i.e. presiding at governing body meetings, serving as municipal ceremonial head, and signing official documents. Under present law, manager plan boroughs have no elected executive office, and the office of manager combines the executive and administrative roles. Like present borough chairmen in boroughs which have not adopted a manager plan, the borough mayor is elected areawide, and has no vote on the assembly but may veto most assembly actions. Unlike the borough chairman, who serves as both executive and chief administrator of the borough, the borough mayor is designated as executive of the borough, with the functions noted above, but functions as chief administrator remain with the manager.

While preserving the differences in functions between borough chairmen in non-manager plan boroughs and borough mayors in manager plan boroughs, the Conference bill substitutes the title "borough mayor" for "borough chairman" in non-manager plan boroughs as well as employing the same title to describe the newly established office for manager plan boroughs. Use of the identical term in both cases is intended to avoid confusion in reference to borough executives.

In manager plan cities, as with manager plan boroughs, the Conference bill denotes the mayor as chief executive and the manager as chief administrator; the bills under consideration designate the manager as both, while assigning functions to preside at council meetings, serve as ceremonial head, and sign documents, to the mayor.

It should be noted the designation of the mayor as executive and the manager as administrator, as with the borough mayor and manager, is not intended to confer powers upon the respective officials independently of those otherwise expressly conferred in the bill. Moreover, a number of code sections have required amendment, with the term "administrator" or "chief administrator" being added to, or substituted for, the term "executive". These changes are intended in all cases but one to be technical changes only, reflecting the separation in roles of executive and chief administrator which the Conference bill formalizes in manager plan cities and boroughs. The exception concerns sec. 29.48.150 in which the power to introduce ordinances, conferred in the bills

under consideration to assembly or council members or committees and the municipal executive, is broadened to include the borough or city chief administrator. The addition has the effect of preserving the authority of borough and city managers, as the "municipal executive" under existing law, to introduce ordinances and extends the authority as well to the elected mayors in manager plan boroughs and cities.

Another modification of the Conference bill authorizes the borough executive (mayor) with assembly approval to designate a person to serve as mayor in case of his temporary absence or disability. Current law and the bills under consideration require the assembly presiding officer (or his designee, under current law) to act as temporary chairman in all cases.

The changes noted above relating to the city and borough executive and administrator are binding on general law, but not home rule, municipalities.

ALTERATION OF BOUNDARIES.

In relation to unification of a borough and cities within it as a single unit of home rule local government, the Conference bill rewords the question submitted to voters at the first election to determine whether a unification commission should be elected to prepare a proposed unification charter for voter approval at a second election. Rather than submit the question, as under current law and the bills under consideration, "Shall the .....Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and a majority vote from the remaining area composed of all first class and home rule cities of the borough?", the Conference bill poses to the voters the simpler and more limited question, "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the ..... Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?".

The revised wording of the ballot question for the first election reflects the conclusion that as a practical matter the question of unification is decided at the time of the second election, i.e. the election on the charter prepared by the elected unification charter commission. The preference poll, authorized under current law and the bills under consideration, as to the name of the unified government should one be formed is omitted as a ballot question in the Conference bill.

The Conference bill, in addition, authorizes an assembly resolution as an alternative means to a petition for placing the question of formation of a unification charter commission on the ballot.

The Conference bill expressly provides that boundary changes made by the state Local Boundary Commission under its direct constitutional authority (art. X, sec. 12 of the state constitution) prevail over boundary changes initiated by local action. Both under current statutes and the bills under consideration this principle seems presumed but is not expressly stated.

MUNICIPAL DEBT.

The Conference bill specifies the municipal governing body or its designee in both home rule and general law municipalities as the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range municipal financial planning which leads to the sale of bonds. The provision does not affect the governing body's authority to contract, or to delegate its authority to contract, the services of other professional consultants.

Other provisions of the Conference bill broaden code provisions on issuance of tax anticipation notes to include notes issued in anticipation of revenues generally (the power to borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year being specifically conferred upon political subdivisions under art. IX, sec. 10 of the state constitution). The specific revenue anticipation note authority conferred in the bill derives from SB 316 currently before the legislature.

INCORPORATION.

Boroughs. The Conference bill eliminates the requirement that an area proposed for borough incorporation must encompass a trading area. The reference was not considered clear as to meaning or necessary in the context of other broad standards of incorporation set out in the code.

POWERS APPLICABLE TO ALL MUNICIPALITIES.

The Conference bill adds several powers to those which general law cities and boroughs are authorized to exercise under this chapter. Like most other powers listed in the chapter, the powers are designated in general terms; a liberal construction is subsequently provided for (in accordance with art. X, sec. 1 of the state constitution). Specifically, animal control and water pollution control powers are added. Also added are consumer protection powers, intended to include regulatory as well as other methods of consumer protection services, without restricting powers to regulate particular activities elsewhere in the code, particularly at sec. 35 of the chapter.

Unlike consumer protection and most other powers enumerated in the chapter as to boroughs, the animal control and water pollution control powers are added to a limited category of powers which under existing law may be exercised in the borough area outside cities, or areawide, at the option of the borough and without the usual prerequisites of petition and voter approval

for exercise of the power. As under existing law, city exercise of the powers once they are exercised areawide by the borough is preempted unless the borough ordinance assuming the powers provides otherwise or subsequently the borough ceases to exercise the power. Dog control powers are presently authorized areawide and in the borough areas outside cities in the manner described; the Conference bill expands the present authority to include animal control generally. As to water pollution control, the Conference Committee considered authorizing water pollution control facilities and services on an areawide basis (under sec. 29.48.030) but decided exercise of such authority by the borough should be subject to prior petition and vote of the people, in the usual manner for acquisition of areawide powers; the water pollution authority granted, accordingly, is only regulatory in nature. The grant of water pollution authority to second class boroughs in the area outside cities encompasses both regulatory functions and authority to provide public facilities and services.

With respect to existing authority in the bills under consideration for municipal transportation system facilities and services, the Conference bill adds that power to the limited category of powers which may be exercised areawide or in the borough area outside cities at the option of the borough and makes areawide exercise of the power exclusive of city exercise within the borough. However, with respect to general law boroughs which are not exercising the power on the effective date of the code, a city objecting to assumption of the power areawide is entitled to review of the question by the Alaska Transportation Commission, and the commission is to decide in the particular case whether or not borough exercise of the power areawide is in the public interest. Should the commission decide in the negative, city exercise within the city and borough exercise in the area outside cities would be authorized, subject to areawide assumption by the borough of the power in the usual manner of petition and areawide vote. The power conferred to provide transportation systems and facilities is in addition to power conferred elsewhere in the code for municipal franchising of bus transportation systems.

The bills under consideration incorporate provisions of existing law which give some detail on municipal powers relating to establishment, maintenance and operation of garbage collection and disposal systems. The Conference bill retains those provisions and adds solid waste collection and disposal to their terms. Garbage and solid waste collection and disposal are viewed as largely interrelated activities.

The Conference bill makes special provision on areawide exercise of building, housing or related code powers, but only with respect to flood control, so as to preserve eligibility for federal flood control aid in those boroughs presently exercising areawide flood control powers.

In code transitional provisions, the Conference bill increases from 90 to 180 days after the effective date of the code the time period assigned to local governments for conforming local ordinances as necessary with the code, except for the provisions of

AS 29.28.040 relating to runoff elections in general law cities and boroughs; these supersede conflicting provisions of local ordinances at the time the code takes effect as law.

In addition to the substantive changes summarized above, the Conference bill incorporates technical changes to coordinate the substantive changes made with other code sections affected, to insure that existing provisions of law not substantively changed by the code are retained, and otherwise to refine wording of code provisions.

Senate members	House members
s/ Terry Miller Senator Terry Miller, Chmn	s/ Mike Miller Representative Mike Miller, Chmn.
s/ Edward Merdes Senator Edward A. Merdes	s/ Ed Naughton Representative Edward Naughton
s/ Clifford J. Groh Senator Clifford Groh	s/ Jess Harris Representative Jess Harris

Supplemental Report
to
Free Conference Committee Report
on
SCS CSHB 208 am S and CSHB 208 am
(Revised Municipal Code)

June 15, 1972

COMPARISON OF THE REVISED MUNICIPAL CODE
(FCCS SCS CSHB 208) AND EXISTING LAW

The Free Conference Committee Report on SCS CSHB 208 am S and CSHB 208 am (revised municipal code) submitted to the legislature on May 22, 1972 notes the substantive changes which the Conference bill (FCCS SCS CSHB 208) makes in provisions of the bills referred to the committee. Most of the changes noted are changes of existing law as well as the bills referred. This supplemental report notes mainly additional changes of existing law represented overall by the Conference bill. In addition to serving as a useful comparison of existing law and the revised code, the report is offered to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

Foreword

The need for revision of the local government laws of the state, many of them in the case of cities dating back to territorial days, has long been recognized by the legislature. By concurrent resolution adopted in 1963, the Third Legislature characterized the bulk of state law relating to cities as "disjointed" and not serving the best interest of the state. After a two-year revision effort conducted by the Local Affairs Agency, the Department of Law, and the Legislative Affairs Agency, a proposed revised code was introduced into the First Session of the Fourth Legislature and since then has been continually before the legislature in various modified forms of the original bill. Its adoption in the current session of the legislature follows some seven years of review and subsequent revision by committees of the legislature as well as by the Alaska Municipal League, the public through hearings, municipal and school officials, staffs of the legislative and executive branches of the government, and many other interested parties.

The final form of the code derives largely from a draft prepared and submitted in 1971 by a committee of the Alaska Municipal League comprised of municipal attorneys and administrators. The League draft in turn is based on earlier versions of the code but reflects extensive updating and adjustment of provisions to emphasize a technical revision rather than large-scale substantive changes in existing areas of law.

Like any overall revision of titles of the Alaska Statutes, of course, the code incorporates changes from existing law both in form and in substance, albeit the substantive changes are relatively limited considering the scope of the revision and the technical revisions made. Inasmuch as the code is an entire recodification of the laws relating to cities and boroughs now

found in Titles 7 and 29, it is virtually impossible to specify every change that has taken place between the code and existing law, but this comparison is intended to indicate the major impact of the revision represented by the Conference bill.

Chapter 3. The Unorganized Borough

The law relating to the unorganized borough is unchanged. The present provisions of Title 7 granting authority to the division of lands to adopt zoning regulations for federal lands in the unorganized borough at the request of the Secretary of the Interior and only for purposes of facilitating federal land sales in the unorganized borough is placed in Title 38 (Sec. 6 of the Conference bill).

Chapter 8. Classification of Municipalities (Cities and Organized Boroughs)

The code simplifies classification of cities by providing for two instead of four classes of general law cities (Sec. 29.08.-030). A population minimum of 400 permanent residents is set as the number necessary to incorporate a first class city under the code, as under present law. A minimum of 25 permanent residents is set for second class city incorporation (Secs. 29.-18.010 and 29.18.020).

The distinction between the two classes of cities relates primarily to property-tax and school powers and reflects the basic distinction under present law between first, second and third class cities, which have property taxing power and, in the unorganized borough, are school districts, and fourth class cities, which have neither the school powers nor property taxing powers for general municipal purposes. That distinction is maintained under the new classification, except that second class cities under the code, i.e. present fourth class cities, are accorded power to provide for a limited property tax upon referendum vote, as noted further under municipal assessment and taxation.

The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the code. Existing second and third class cities with populations of 400 or more automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities with populations under 400 and located outside boroughs may not have sufficient population or tax base to carry the school function. Therefore, those cities are given the option of becoming either first class or second class, depending upon their abilities and preferences, as assessed by the Local Boundary Commission and subject to legislative review. Existing fourth class cities automatically become second class cities under the code, with generally the same powers and responsibilities which they now possess (except for the limited property-tax levying power if conferred by referendum) (Secs. 29.08.010 through 29.08.050 and Secs. 29.18.010 and 29.18.020).

The code provides for reclassification of cities and boroughs to a higher class. Upon reclassification of a third class borough to a second or first class borough, the borough may retain a combined assembly-school board or may separate the

functions between an assembly and a board, depending upon the wishes of the voters (Sec. 29.08.040).

Chapter 13. Home Rule Municipalities

The code standardizes the procedures for adopting a charter in either a first class city or borough. The power of home rule municipalities to amend an existing charter or adopt a new one is expressly recognized in the chapter (Sec. 29.13.010), and, insofar as the provisions of Article 1, Charters are concerned, only the general requirements governing charter amendment (Sec. 29.13.080) apply to municipalities having home rule charters when the code takes effect as law.

Home rule limitations are gathered together and listed in one place in Article 2 of the chapter (Sec. 29.13.100). The listing makes explicit the legislative intent as to which provisions of the code apply to home rule municipalities, as prohibitions on acting otherwise than as provided, and which do not. Additionally, the provisions themselves contain a specific reference making them applicable to home rule municipalities. The listing and specific references in the provisions are intended to coincide. (As additional provisions of law are enacted subsequent to the time the code takes effect, provisions which are intended to apply to home rule as well as to general law municipalities as prohibitions on acting otherwise than as provided should make a specific reference to home rule municipalities within the provision and should, under the form of the new code, also be included in the listing under Sec. 29.13.100, so as to maintain clearly the legislative distinction as to which code provisions apply to home rule municipalities and which do not.)

Chapter 18. Incorporation

Incorporation procedures are made uniform for all municipalities (Secs. 29.18.050 - 29.18.110). Special restrictions of existing law on incorporation of fourth class cities are thus removed as to incorporation of these cities as second class cities under the code. As noted in the Conference report, standards for borough incorporation are revised in a very limited sense for clarity. An additional change separates the election of initial municipal officers from the incorporation election itself (Sec. 29.18.120).

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities which are incorporated, or reclassified as first class cities, after January 1, 1968. Organizational money grants based on an allocation of $10 per voter are authorized. A minimum grant of $25,000 is authorized for communities assuming the school function for the first time, either by incorporation as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180).

Under the revision boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries (Secs. 29.18.190 - 29.18.200) Previously, only boroughs and, as of 1970, first and second

class cities, enjoyed this right of selection. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code, consistent with the best interests of the state.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and local officers is gathered into this chapter. Provisions respecting the borough and city executive have been revised as described in the Conference report. In addition, the veto power of borough chairmen (to be designated borough mayors in the revision) and mayors of first class cities has been broadened and clarified. In the past there has been a question of whether a veto could be used for motions and other actions of the assembly or council. That it may be is expressly provided (Secs. 29.23.170(a) and 29.23.270(a)). In the same subsections authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the executive may veto only that which governing body may enact, and the only power the governing body has with respect to the school budget is to approve or disapprove the total budget).

The code provides that the mayor of a first class city is elected directly by the voters, has the veto power, but votes only in case of a tie. The mayor of a second class city is elected as a councilman, and is then selected as mayor by the council; he may vote but has no veto power (Secs. 29.23.250(b) - (c), 29.23.260 and 29.23.270). The borough mayor does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). Election sections for election of borough assemblymen in the borough area outside cities are permitted, as under present law, with sections to be of approximately equal population (Sec. 29.23.100).

Utility boards elected by the voters or appointed by the municipal executive and confirmed by the governing body are permitted for boroughs and cities (Sec. 29.23.340). (Elected boards only are authorized to general law municipalities under existing statutes.)

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23.410 - 29.23.480).

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, a financial report, and reports relating to long-term debt as already required under AS 44.19.205. The financial report takes the form of the annual audit for boroughs and first class cities, but second class cities may submit a statement of income and expenditures. Furnishing the reports is made a condition of receipt of authorized shared revenues under AS 43.18 (Sec. 29.23.560).

Provisions of existing law requiring disclosure by a borough officer or employee of any direct or indirect financial interest in contracts with, or sales made to, the borough are not retained in the code as adopted; however, assemblymen in general law boroughs are prohibited in the code from voting on questions in which they have a substantial direct or indirect financial interest (Sec. 29.23.060(d)).

Chapter 28. Elections

The major revisions with respect to municipal elections are outlined in the Conference report. In addition, the section on recall has been changed from existing law to eliminate the requirement that a successor to the office affected by the recall run at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250).

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of the powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110). (All provisions of the initiative and referendum article are intended to govern within general law cities and boroughs both.)

Municipal elections are nonpartisan for all municipalities as under existing law (Sec. 29.28.010).

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) assessment and collection of taxes, (2) education, and (3) planning, platting and zoning. Under present law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the code broadens this to include the collection of use and sales taxes authorized by the voters (Sec. 29.33.030).

The relationships between school boards and borough assemblies are retained substantively as under present law, except, as noted in the Conference report, consideration in the design of school buildings for multiple use for community purposes is specified. The provisions are transferred to Title 14, Education, rather than being retained, as under existing law, in the municipal statutes (Secs. 8 and 9 of the Conference bill).

There has been considerable smoothing out in the planning, platting and zoning article (Secs. 29.33.070 - 29.33.245), with a number of substantive changes. Among them, provision is made to insure membership from cities on borough planning commissions (the reference to first class cities in the provision, Sec. 29.23.080, is intended to encompass home rule as well as first class cities not having adopted a charter). The planning commission itself is authorized to decide on variances subject only to appeal to the board of adjustment. (Secs. 29.33.080(d) and 29.33.110(b)). Under the current procedure all variances, no matter how routine, go to the board of adjustment. Another change, noted in the Conference report, expressly authorizes delegations of planning commission, platting board and board of

adjustment functions to hear and decide cases (Sec. 29.33.245), and the provisions of CSHB 290, relating to land subdivisions and adopted by both houses during the current session, are incorporated in the revision. A further change of existing law places power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than in the boroughs as part of the areawide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, a borough exercising the powers within cities when the code takes effect may continue to exercise the powers upon agreement between a city and the borough; if there is no agreement, the city is required to exercise the powers within the city and the borough is required to continue exercising the powers outside the city (Sec. 29.48.035). A limited exception, noted in the Conference report, reserves the powers to boroughs for flood control purposes only, if the powers are being exercised areawide for those purposes when the code takes effect. (Existing borough law has been interpreted to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under the code the planning commission must prepare and recommend an official map (Sec. 29.33.080(b)), but this brief reference to an official map is not intended to require municipal adoption of an official map or to imply legal effects of an official map if adopted. (Former proposed provisions of the code required map adoption and prescribed its effects, but those provisions were not retained in the code.)

Under existing laws relating to acquisition of additional areawide powers, it is unclear whether second class boroughs may, like first class boroughs, acquire additional areawide powers by transfer from cities. The revision explicitly authorizes this method (Sec. 29.33.250). The same section also makes explicit the power of first class boroughs to acquire additional areawide powers by means of an areawide election on the question, as well as by transfer from cities. Elections on the question of adding areawide powers are authorized by petition of the voters as well as by assembly proposal (Sec. 29.33.270).

Moreover, the Local Affairs Agency is no longer required to pass upon the acquisition of additional areawide powers; the evaluation is to be made by the assembly after public hearing (Sec. 29.33.280). (Petitions for acquisition of powers pending before the Local Affairs Agency or the Local Boundary Commission at the time the code takes effect as law are presumably preserved under the transitional provision of Sec. 3 of the Conference bill.)

Other substantive changes relating to areawide borough powers and duties are noted in the Conference report, under the discussion of powers applicable to all municipalities. (The conditions on city exercise of the areawide powers noted in the Conference report are intended to include home rule as well as general law cities in all cases.)

Chapter 38. Borough Powers and Duties in the Area Outside Cities

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to explore

those alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.010).

A second class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.38.020), except with respect to certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law (with animal control limited to dog control). Acquisition of additional powers and duties in the area outside cities again may be proposed by voters' petition as well as by the assembly and no longer requires review by the Local Affairs Agency (Sec. 29.38.040).

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged. Acquisition of powers in the borough area outside cities is intended, as under present law, to be governed by provisions of law applying to second class boroughs. The borough assembly continues to function as the school board in third class boroughs, and the borough executive serves as presiding officer of the assembly. The requirement of present law that the executive be appointed from and by the assembly is not retained in the code. (Under the transitional provisions of Sec. 3 of the Conference bill authorizing local ordinances to remain in effect for a period of 180 days from the date the code takes effect as law, a third class borough ordinance providing for an executive to be appointed from and by the assembly presumably would preclude election of an executive by the voters until the first regular election following expiration of the 180-day period, unless the ordinance is earlier amended to conform with the code.)

Chapter 43. Powers of Cities Outside Boroughs

Authority is provided for home rule and first class cities outside boroughs to assess, levy and collect a general property tax within city boundaries. Sales and use tax authority within boundaries of all cities is also conferred. Taxes are to be assessed, levied and collected in the manner set forth for boroughs in the code (Sec. 29.43.020). (The limited property tax power of second class cities is not expressly stated in this provision but is authorized through Sec. 29.53.410.)

First class cities outside boroughs continue to comprise city school districts, with relationships between school boards and city councils to be governed in the same manner as those between borough school boards and assemblies. (Sec. 29.43.030).

Home rule and first class cities outside boroughs must, and second class cities may, provide for planning, platting and zoning in the manner provided in the code for boroughs under the code (Sec. 29.43.040) (present law does not expressly require home rule or first class city exercise of planning, platting or zoning authority).

The chapter makes borough laws incorporated by reference under the chapter applicable to home rule cities only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Chapter 48. Powers Applicable to All Municipalities

The major changes with respect to this code subject are summarized in the Conference report. As the report notes, an entirely new approach from that of existing law has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The revision merely lists the powers and provides for liberal construction of the powers, as required by the constitution (Secs. 29.48.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of the object or purpose intended to be accomplished (Secs. 29.48.320 and 29.48.330).

The procedure for enactment of ordinances has been simplified and streamlined without changing substantive rights. The code, however, changes the time between publication and hearing from one week to five days. The change permits special meetings for final consideration of a proposed ordinance to be held on the same day as regular meetings (Sec. 29.48.140). The provision also eliminates the present requirement for a new hearing should there be an amendment as to substance, since the original hearing is viewed as providing the public the opportunity to propose changes to improve the ordinance.

In addition to requiring copies of ordinances to be made available, the code requires municipalities to codify ordinances and resolutions (Sec. 29.48.180). This section bears some specific comment on meaning. Subsections (a) and (c) of Sec. 29.48.180, requiring that ordinances and resolutions be codified by one of two methods, is intended to apply to cities, as is indicated by the definition in (a)(2). However, as to cities incorporated after the code takes effect, (b) of the section also applies and requires adoption and retention of a general codification of ordinances within three years of incorporation. (In effect, a similar type of codification to that of (c)(2) is required; resolutions continue subject to the optional methods of codifying under (a)). Also, (b) applies to boroughs which are incorporated after the code takes effect, and the provision is intended as well to carry over as a requirement on existing boroughs; notably, it appears in current borough law in almost identical form. (While official responsibility for preparation of a codification is assigned the municipal executive, it is anticipated that supervision of preparation in manager plan cities and boroughs will fall to the municipal administrator, i.e. the manager.)

Authority to establish centralized purchasing for the municipality and its departments (but not including schools) is expressly conferred under the code (Sec. 29.48.250).

Under existing law, emergency disaster powers are applicable only to c e r t a i n municipalities. The code authorizes all municipalities, regardless of classification, to exercise emergency disaster powers (Sec. 29.48.270), on the reasoning that should a disaster strike the classification of city is not relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to provide for property, sales and use taxes. Boroughs and home rule and first class cities may utilize all the taxes. Second class cities may provide for sales and use taxes. Second class cities, both within and outside organized boroughs, may also tax property for general municipal purposes at a rate not to exceed one-half of one per cent of the assessed valuation of the property taxed, if authority to do so is conferred by municipal referendum (Sec. 29.53.410).

Within a borough the borough collects all the taxes, provided the borough itself levies a sales or use tax. (Under existing law boroughs are required to assess and collect only the property taxes levied by cities.) Within a borough, a city collects sales or use taxes if the borough does not itself levy and collect such taxes (Sec. 29.53.450). If a borough levies and collects sales or use taxes on an areawide basis, cities within the borough which levy such taxes within their boundaries must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). (The uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes. (The power of second class cities to levy a limited property tax, under Sec. 29.53.-410, is intended to include, in the case of second class cities outside boroughs, the power to assess and collect the taxes as well.)

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy, and collection of property taxes are applied uniformly to all municipalities, home rule as well as general law. Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule municipalities, but there has been doubt under existing law whether other taxing provisions (as well as many other provisions of current local government law) apply.

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions or exclusions as to residential property to be made by ordinance ratified by the municipal voters (Sec. 29.53.025(a)). Any exemptions or exclusions granted by home rule municipalities and in effect on the date the code takes effect as law are not affected by enactment of the code (Sec. 29.53.025(d)).

Property assessment procedures for tax purposes are consolidated and simplified under the code. A provision of former law, repealed some years ago and establishing a limited value for certain unimproved or nonproducing mining claims, is restored (Sec. 29.53.030).

The code continues provisions of present law imposing a municipal tax limitation on all municipalities of three per cent of the assessed valuation of property within the municipality and excepting taxes for the payment of bond obligations from the limitation (Secs. 29.53.050 and 29.53.055). (As noted above, more restrictive limitation is imposed as to the newly

conferred power of second class cities to levy a property tax upon referendum approval, i.e. a limitation of one-half of one per cent of the assessed valuation of the property taxed. That limit may be exceeded in a second class city which has authorized a property tax by referendum, but only if levy of the tax is necessary to avoid a default in payment of bond or other debt obligations (Sec. 29.53.410). Authority for a levy to meet bond obligations is provided fourth class cities under present law.)

There are several changes concerning the enforcement of tax liens. One is that the foreclosure list no longer must be presented to the court on the day of publication. This requirement has created substantial difficulty where the newspaper of publication is not located within the same city as the borough seat or within the city which is foreclosing the taxes.

Under existing law, tax-foreclosed property is deeded to the borough. Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property within the city not be needed for public use by the city but be needed for public use by the borough, the borough may obtain such property. The same holds true for unredeemed property in the area outside the city needed by the city. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.360 and 29.53.385).

Under present law, general law municipalities are allowed to levy a sales tax on voter approval but are not allowed to levy a use tax. Under the code, as noted, both may be levied. The use tax being a correlative of the sales tax, no election is required to authorize the use tax (Secs. 29.53.415, 29.53.-420, 29.53.440 and 29.53.450). (Municipalities in which sales taxes have been authorized by municipal voters before the date the code takes effect as law are intended to be included within the code authority for levy of a use tax.)

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405).

Other provisions relating to municipal assessment and taxation are noted in the Conference report. (With reference to the code exemption of the place of abode of residents 65 years of age or over from city and borough real property taxation, the Conference report should correctly read that the exemption applies to such residents whose gross annual income totals less than $10,000, rather than, as stated in the report, whose annual net taxable income is less than $10,000.)

Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of revenue anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under art. IX,

sec. 10 of the state constitution relating to the borrowing o money in anticipation of revenue collections). The code specifically authorizes revenue anticipation notes in anticip tion of tax or other revenues (Secs. 29.58.010 - 29.58.060).

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after prop notice; the notice includes a statement of total current bond indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160).

Under existing law an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is modified in the code to require no election unless an election is required by local ordinance (Sec. 29.58 205). In boroughs, if the full faith and credit of the borou is pledged to guarantee payment of principal and interest on bonded debt incurred on behalf of the borough area outside cities or a service area only, majority voter approval must b obtained both areawide as well as in the area outside cities or the service area (Sec. 29.58.340(d,); under present law, a boroughwide pledge is expressly authorized for bonds of a service area only.

Further provisions on municipal debt are outlined in the Con ference report.

Chapter 63. Special Assessments and Service Areas

The code revises provisions of existing law governing special assessments. Procedural fairness requirements for making assessments are retained, but much of the unnecessary cumbersomeness of existing provisions is removed.

Significantly, the revision also provides that special assessments may be levied against property owned by other governmen units (Sec. 29.63.010). The state is required to pay the ass ment, subject to its right of protest. A governmental unit o than the state which refuses to pay the assessment is denied benefit of the improvement.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated in the code. The Local Boundary Commission is required to establish procedures for annexation and exclusion by local action (Sec. 29.68.010(b)). As noted in the Conference report, a boundary change made directly by the Local Boundary Commission is recognized as prevailing over a change initiated by local action (Sec. 29.68.010(c)).

Merger and consolidation is made uniform for all municipalities under the code and is authorized by either petition to the Local Boundary Commission under regulations adopted by the commission or by local election after approval of a merger or consolidation petition by the commission. (Under present statutes, essentially the second method only is authorized for borough merger and consolidation, and city consolidation is conditioned on adoption of ordinances calling for an election by the governing bodies of cities concerned and approval of proposed consolidation by the respective city voters.)

Unification of a borough and cities within it is authorized as under present law (Secs. 29.68.240 - 29.68.440), with modifications as noted in the Conference report and with more specific provisions made than those of present law concerning authority of the unified government to allocate preunification debt (Secs. 29.68.350(a)(1) and 29.68.410).

Dissolution of municipalities under the code is made uniform for all municipalities and may be proposed by either petition to the Local Boundary Commission under regulations adopted by it or by local option election (Sec. 29.68.500(a)). Essentially the same procedures are available to cities seeking dissolution under present law. Borough dissolution is authorized by local election after approval of a dissolution petition by the Local Boundary Commission. The Local Affairs Agency is required under the code to investigate municipalities which it considers inactive and to report on their status. The commission may recommend to the legislature that an inactive municipality be dissolved (Sec. 29.68.500(c)). The recommendation is made in the same manner as boundary change recommendations are made under art. X, sec. 12 of the state constitution.

Chapter 73. Miscellaneous Provisions

Municipalities are authorized powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). In second class cities, as with fourth class cities under present law, exercise of eminent domain and declaration of taking in the performance of an authorized city power or function is subject to approval of the Local Affairs Agency and voter approval of an ordinance for the purpose.

Conclusion

Additional revisions of existing law represented by the Conference bill are noted in the Conference report. Several technical corrections in citations and provisions, largely to coordinate related code provisions after recent changes, remain to be made in a separate bill. If not adopted at the current session of the legislature, these technical corrections will be submitted to the revisor of statutes for recommended inclusion in the forthcoming revisor's bill.

In general, the revised code is presented primarily as a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout the present Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The revised code provides a better framework for existing law. It also provides a better framework from which to develop proposals for substantive changes which may be added after individual consideration of each change on its own merits.

Senate Members	House Members
Senator Terry Miller, Chairman	Representative Mike Miller, Chairman
Senator Edward A. Merdes	Representative Edward Naughton
Senator Clifford J. Groh	Representative Jess Harris

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Original sponsor: Local Government Committee Offered: 5/22/72

IN THE HOUSE BY THE FREE CONFERENCE COMMITTEE

FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act to revise and codify the law relating to cities and boroughs."

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

* Section 1. The following laws are repealed: AS 07.05 - 07.40; AS 18.75.010 - 18.75.030, 18.75.050 - 18.75.060; AS 29.05 - 29.95; AS 37.30; AS 40.15.100 - 40.15.180.

* Sec. 2. AS 29 is amended by adding new chapters to read:

TITLE 29. MUNICIPAL GOVERNMENT.

CHAPTER 3. THE UNORGANIZED BOROUGH.

Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not within the boundaries of an organized borough constitute a single unorganized borough.

Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to schools, utilities, land use regulations and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.08.010. HOME RULE. A home rule municipality is a municipal corporation and political subdivision and is a borough of the first class or city of the first class which has adopted a home rule charter. It has all legislative powers not prohibited by law or charter.

Sec. 29.08.020. GENERAL LAW. A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law.

Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipalities are of five classes:

(1) first class boroughs;

(2) second class boroughs;

(3) third class boroughs;

(4) first class cities;

(5) second class cities.

Sec. 29.08.040. RECLASSIFICATION. (a) A second class city may be reclassified as a first class city by holding an election on the question as provided in this subsection, if the Local Affairs Agency determines from the best figures available that the population of the city has reached 400 permanent residents.

(b) An election on the question of reclassification may be initiated in two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the city at the preceding regular election may file a petition with the council; or

(2) the council may propose reclassification.

(c) The council shall hold at least one public hearing within the city on the question. The council shall then evaluate the ability of the city to assume first class status and make its findings public.

(d) The council shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(e) If more than one question is to be voted on at the election,

each appears separately on the ballot.

(f) The council shall certify the election results to the Local Affairs Agency. If the majority of votes cast on the question is favorable, the city shall be considered reclassified to first class status 30 days after certification of the election results.

(g) A second class borough may reclassify as a first class or third class borough, and a third class borough may reclassify as a first class or second class borough, in the manner provided by AS 29.-33.270 - 29.33.290 for the addition of powers by boroughs, except the petition or proposal requests reclassification instead of requesting addition of powers.

(h) At the time of voting on reclassification of a second class borough to third class status, borough voters in conformity with AS 29.41 shall elect an assembly to serve as the combined assembly and school board of the third class borough if reclassification is approved.

(i) At the time of voting on reclassification of a third class borough to second class or first class status, borough voters shall vote also on the question whether the borough shall upon reclassification retain a combined assembly and school board or a separate assembly and board as otherwise provided for first and second class boroughs. If the majority of votes cast on the question favors retention of the combined assembly and board, the assembly serving at the time of the reclassification election continues to serve as the assembly and board upon voter approval of reclassification and until terms of assemblymen expire as provided before reclassification. If a separate board and assembly are approved at the reclassification election, a school board shall be elected in conformity with AS 14.12 at the next regular municipal election, if it occurs within 90 days of the date of the reclassification election, or otherwise at a special election within that time

called by the assembly with expiration dates of terms of members elected at the special election to coincide with the date of the regular municipal election. Until a board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.08.050. TRANSITION. (a) Upon the effective date of this Act, the current classification of existing home rule cities and of first class cities having 400 or more permanent residents is not affected by this Act. Second and third class cities incorporated before the effective date of this Act and having 400 or more permanent residents are reclassified as first class cities. The city council shall certify by resolution the number of permanent residents within the city. Upon the failure to certify, the Local Boundary Commission shall hold a public hearing and make a determination as to classification as provided in (c) of this section.

(b) Upon the effective date of this Act, fourth class cities incorporated before the effective date of this Act are reclassified as second class cities subject to reclassification under sec. 40 of this chapter.

(c) The Local Boundary Commission shall, within two years of the effective date of this Act, hold a public hearing in each city which was first, second, or third class before the effective date of this Act and whose population is under 400 permanent residents. The commission shall determine in each case whether the city should be classified as first or second class under the new classification. The commission's decision must be published at least once. Unless objections are filed with the Local Boundary Commission by at least five per cent of the permanent residents of the city within 60 days, the classification recommended by the commission becomes effective on the 61st day. If objections are filed by at least five per cent of the permanent

residents of the city, the commission shall submit its recommendation to the legislature in the manner provided for submission of boundary changes in sec. 12, art. X of the state constitution.

CHAPTER 13. HOME RULE MUNICIPALITIES.

ARTICLE 1. CHARTERS.

Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class municipality may adopt a charter for its own government. A home rule municipality may amend its charter or adopt a new one. A charter is framed by a charter commission of seven members chosen by the municipal voters at a regular or special election. A candidate for the commission must be a qualified voter of the municipality and a resident of the municipality for three years immediately preceding the election. A charter commission election is called by filing a petition with the borough assembly or the city council, or by resolution of the borough assembly or city council. The petition must be signed by a number of municipal voters equal to 10 per cent of the votes cast in the last regular election of the municipality.

Sec. 29.13.020. NOMINATION. Charter commission candidates are nominated by petitions signed by 50 voters or the number of qualified municipal voters equal to 10 per cent of the number of votes cast in the last regular election, whichever is less.

Sec. 29.13.030. ELECTION. At the charter commission election the voters shall consider the question "Shall a charter commission be elected to frame a proposed new charter?" and shall select the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes shall immediately organize as a charter commission.

Sec. 29.13.040. PREPARATION OF CHARTER. The charter commission shall, within one year, prepare a municipal charter. The proposed

charter shall be signed by a majority of the charter commissioners and filed in the office of the municipal clerk. Within 15 days, the borough assembly or city council shall have the charter published once in a newspaper of general circulation if distributed within the municipality. The clerk shall post copies of the proposed charter in at least three public places and make copies available at the office of the clerk. The commission shall give published notice of and hold at least one public hearing on the proposed charter before signing and filing of the charter.

Sec. 29.13.050. INITIATIVE AND REFERENDUM. (a) Municipal charters shall provide the procedures for the initiative and referendum.

(b) A charter may not require an initiative or referendum petition to have a number of signatures greater than 25 per cent of the total votes cast at the last regular municipal election.

(c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by sec. 7, art. XI of the state constitution.

Sec. 29.13.060. CHARTER ELECTION. The charter shall be submitted to the municipal voters at a regular or special election held not less than 30 days nor more than 90 days from the publication of the charter.

Sec. 29.13.070. CHARTER ADOPTION. (a) If a majority of those voting on the question favor the proposed charter, it becomes the organic law of the municipality. Thereafter the court shall take judicial notice of the charter. The municipality shall file the indicated number of copies of the charter with the

(1) lieutenant governor - two copies;

(2) Local Affairs Agency - two copies;

(3) district recorder - one copy;

(4) municipal clerk - one copy.

(b) If a proposed charter is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060 - 29.28.110, except that no amendment shall be effective unless ratified by the voters.

ARTICLE 2. HOME RULE LIMITATIONS.

Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

(1) AS 29.13.080 (charter amendment)

(2) AS 29.18.140 (borough transition)

(3) AS 29.23.020 - 29.23.050 (city representation and vote on borough assembly)

(4) AS 29.23.250(a) (election and term of mayor)

(5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)

(6) AS 29.23.560 (municipal reports)

(7) AS 29.23.580 (meetings public)

(8) AS 29.28.010, 29.28.020(b) - 29.28.030 (municipal elections)

(9) AS 29.28.130 - 29.28.250 (recall)

(10) AS 29.33.010(b) (areawide borough powers)

(11) AS 29.33.290(c) (acquisition of additional areawide powers)

(12) AS 29.43.020 - 29.43.040 (powers of cities outside boroughs)

(13) AS 29.48.033 (garbage and solid waste services)

(14) AS 29.48.035(c) (borough building code jurisdiction within cities)

(15) AS 29.48.037 (extraterritorial jurisdiction)

(16) AS 29.48.040 - 29.48.100 (utilities)

(17) AS 29.48.180 (codification)

(18) AS 29.48.190(a) (fiscal year)

(19) AS 29.48.210 (expenditure of borough revenue)

(20) AS 29.48.220 (post audit)

(21) AS 29.53.010 - 29.53.350, 29.53.400 (borough and city property tax)

(22) AS 29.53.415(d) (interest on sales tax)

(23) AS 29.58.180(b) (security for bonds)

(24) AS 29.58.315 (bond attorneys, bond and financial consultants)

(25) AS 29.68.010 (annexation and exclusion)

(26) AS 29.68.030 - 29.68.110 (merger and consolidation)

(27) AS 29.68.500 - 29.68.580 (dissolution)

(28) AS 29.73.020 (eminent domain)

(29) AS 29.73.030 (adverse possession)

(30) AS 29.73.040 (taxation of municipalities)

(31) AS 29.73.050 (municipal name changes)

CHAPTER 18. INCORPORATION.

ARTICLE 1. REQUIREMENTS.

Sec. 29.18.010. FIRST CLASS CITIES. A community having 400 or more permanent residents may incorporate as a first class city.

Sec. 29.18.020. SECOND CLASS CITIES. A community having 25 or more permanent residents may incorporate as a second class city.

Sec. 29.18.030. ORGANIZED BOROUGHS. An area may incorporate as an organized borough if it conforms to the following standards:

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

(2) the boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services;

(3) the economy of the area includes the human and financial resources capable of providing local services; evaluation of an area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough;

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

ARTICLE 2. PROCEDURES.

Sec. 29.18.050. PETITION. Municipal incorporation is proposed by filing a petition with the Local Affairs Agency. The petition shall include the following information about the proposed municipality:

(1) class;

(2) name;

(3) boundaries;

(4) composition and apportionment of the assembly or council;

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

(6) for a second class borough, a designation of areawide powers to be exercised and of powers to be exercised in the area outside cities only;

(7) maps, documents, and other information required by the Local Affairs Agency to show that the proposed municipality meets the standards for incorporation;

(8) for first class city incorporation, the signatures and resident address of 50 permanent resident voters within the proposed municipality;

(9) for second class city incorporation, the signature and resident address of 10 permanent resident voters within the proposed municipality;

(10) for borough incorporation, the signature and resident address of 15 per cent of the permanent resident voters in each first class city and 15 per cent of voters in the area outside first class cities based on the number who voted in the respective areas in the last general election.

Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review petitions for content and signatures and shall return deficient petitions for correction and completion.

Sec. 29.18.070. INVESTIGATION. (a) If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal. It may use U.S. Bureau of the Census reports or other reliable information to determine more accurately the population of the proposed municipality.

(b) The agency may combine petitions for incorporation from the

same general area.

Sec. 29.18.080. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation.

(b) The Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated for the purpose of gauging public sentiment on the incorporation proposal.

Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. (a) If the Local Boundary Commission determines that a proposed borough fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed borough meets the standards, it shall accept the petition. If the commission determines that the proposed boundaries can be altered to meet the standards, it may alter the boundaries and accept the petition.

(b) A commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.18.100. DECISION ON CITY INCORPORATION. (a) If the Local Boundary Commission determines that proposed city boundaries are too restrictive or too expansive for efficient local government, it may alter the boundaries and accept the petition.

(b) The commission may reject a petition for incorporation of a city lying within a borough if it determines that desired municipal services can be more practically and economically provided by the borough or by annexation to an existing city.

(c) A commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of an incorporation petition. Within 30 days after notifi-

cation, the lieutenant governor shall order an election in the proposed municipality to determine whether the voters desire incorporation. The election is held not less than 30 nor more than 90 days after the date of the election order. The election order must specify the dates during which nomination petitions for election of initial officers may be filed.

(b) An Alaska voter who has been a resident of the area within the proposed municipality for 30 days before the date of the election order may vote.

(c) Areawide borough powers included in the incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each power to be exercised outside cities only is placed separately on the ballot. Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the voters residing outside cities.

(d) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-60). The state shall pay all election costs under this section.

Sec. 29.18.120. ELECTION OF INITIAL OFFICERS. (a) If incorporation is approved, the lieutenant governor shall, within 10 days of certification order an election to choose an initial slate of officers. The election is held not less than 60 nor more than 90 days after the date of the election order.

(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough mayor and as a member

of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city. Petitions to nominate borough assemblymen must include the signature and resident address of 50 voters who are residents of the proposed borough in the area outside home rule and first class cities. Petitions to nominate other municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs under (a) - (c) of this section.

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough assembly members representing home rule or first class cities are appointed by the city council and serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

Sec. 29.18.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS. Service areas in a newly incorporated borough or city shall be integrated into the borough or city within two years after the date of incorporation. On integration the borough or city succeeds to all the rights, powers, duties, assets and liabilities of the service areas. After integration, the borough assembly or city council may exercise within a former service area all of the rights and powers exercised by the service area at the time of integration, and may levy and

collect special charges, taxes, or assessments to amortize bonded indebtedness incurred by the service area or by a borough or city as successor to the service area. Upon integration no less than all property in the service area at the time of integration remains subject to taxation to pay the principal of and interest on the bonds. The provisions of this section shall apply to all organized boroughs whether incorporated or organized before or after the effective date of this Act.

Sec. 29.18.140. TRANSITION. (a) The powers and functions exercised by home rule or general law cities and service areas which are succeeded to by a newly incorporated borough or city are exercised by them until the new borough or city assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect before the transfer remain in effect until superseded by the action of the new borough or city.

(b) The borough or city shall give written notice of its assumption of the powers, duties and other items enumerated in secs. 130 - 140 of this chapter, to the city, and service area concerned before the assumption. Borough or city officials shall consult with the officials of the city, and service area concerned and arrange an orderly transfer.

(c) After the incorporation of a new borough or city, no service area within it may assume new bonded indebtedness, make any contract, or transfer any assets without the consent of the assembly or council.

Sec. 29.18.150. CHALLENGE OF LEGALITY. No person may challenge the formation of a municipality except within six months of the date of its incorporation.

ARTICLE 3. TRANSITIONAL ASSISTANCE.

Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the purpose of defraying the cost of transition to borough or city government and

in order to provide for development and interim governmental operations, each borough and city incorporated after January 1, 1968 or, in the case of a second class city, incorporated or reclassified after January 1, 1968, other than a unified municipality incorporated under the provisions of ch. 134 SLA 1967, as amended, or a municipality otherwise incorporated by consolidation, is entitled to an organization grant equal to $10 for every voter who voted in the borough or city incorporation election. However, each incorporated borough and each first class city incorporated or established by reclassification outside an organized borough is entitled to at least $25,000.

(b) Within 30 days after the date of incorporation of a borough or city following the effective date of this Act the Local Affairs Agency shall determine the number of voters in the borough or city who voted in the incorporation election.

(c) Within 30 days after the completion of its findings, or as soon thereafter as money is appropriated to it for the purpose, the Local Affairs Agency shall transmit to the borough or city the total amount of money to which the borough or city is entitled.

Sec. 29.18.190. STATE LAND. A borough or city may select 10 per cent of the vacant, unappropriated, unreserved state land located within its boundaries. In the selection of land under the Alaska Statehood Act, it is the policy of the state to make available to cities and boroughs the maximum land area from which to make selections under this section consistently with the best interests of the state. Nothing in this section affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way or other purpose or affects the rights of an owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

Sec. 29.18.200. SELECTION PROCEDURE. (a) All selections must be made in reasonably compact tracts, taking into account the situation and potential uses of the land involved. The authority to make selections may not be alienated or bargained away, in whole or in part, by the borough or city.

(b) If land desired by the borough or city is unsurveyed at the time of its selection, the Department of Natural Resources shall survey or approve a survey by the borough or city of the exterior boundaries of the area requested without interior subdivision and shall issue a patent for the selected area in terms of the exterior boundary survey. The cost of survey is borne by the borough or city. If land desired by the borough or city has been surveyed at the time of its selection, the boundaries of the areas requested must conform to the public land subdivisions established by the approval of the survey. Land selected by the borough or city under this chapter is patented to the borough or city by the Department of Natural Resources.

(c) After the selection of the land by the borough or city but before the issuance of final patent, the borough or city may execute conditional leases and make conditional sales of selected land.

CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES.

ARTICLE 1. BOROUGH ASSEMBLY.

Sec. 29.23.010. GENERAL POWER. The legislative power of a borough is vested in the assembly.

Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTIONMENT. (a) The assembly of a borough is composed of the number of seats shown on the following table:

Population	Assembly Seats
under 6,000	5
6,000 - 12,000	7

12,001 - 30,000	9
over 30,000	11

(b) If there is one home rule or first class city in the borough, the assembly is composed of at least one assemblyman from the home rule or first class city.

(c) The assembly seats are apportioned as follows: Except as provided in (b) of this section, each home rule or first class city has the number of seats designated in the following table, unless a lesser number is approved by a resolution of the council of the city concerned:

Population	Assembly Seats
under 2,000	1
2,000 - 6,000	2
6,001 - 12,000	3
12,001 - 30,000	4
over 30,000	5

(d) The area outside home rule and first class cities within the borough has a number of assemblymen equal to one more than the total number of all assemblymen who represent home rule and first class cities.

Sec. 29.23.030. ELECTION AND APPOINTMENT. Members of the assembly are appointed or elected according to the apportionment determined by the incorporation petition approved by the voters until the assembly is reapportioned. Members representing home rule and first class cities are appointed by and from the city councils, unless provided otherwise by city charter or ordinance. Members representing the area outside home rule and first class cities are elected.

Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs a regular election is held annually on the first Tuesday of October, unless a different date or interval of election is provided by ordinance to choose

assemblymen from outside home rule and first class cities for three-year terms and until their successors are elected and have qualified. The regular term begins on the first Monday following the regular borough election. City councilmen on the assembly may not be replaced by the council unless their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or the council. The assembly may provide for different terms by ordinance, but they may not exceed four years. The current term of incumbent assemblymen may not be altered.

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. If an assemblyman elected from an area outside home rule and first class cities or from a section becomes a resident of a home rule or first class city or another section he may continue to serve only until the next regular election. The assembly may by ordinance establish residency requirements for assemblymen elected from outside home rule and first class cities not exceeding three years.

Sec. 29.23.060. PROCEDURE. (a) The assembly shall meet at least once every month, unless otherwise provided by ordinance. All meetings shall be public meetings. Special meetings may be held on the call of the chairman, the presiding officer, or one-third of the members, upon not less than 24 hours written or oral notice communicated to each member. In an emergency a special meeting shall be a legal meeting if all members are present or there is a quorum and all absent members have waived in writing the required notice. A waiver may be either before or after the time of the meeting. The waiver shall be attached to and made a part of the journal for that meeting.

(b) The assembly shall elect from among its members a presiding

officer and a deputy presiding officer to serve at its pleasure, except that in manager plan boroughs the borough mayor serves as presiding officer. If the presiding officer is not present or disqualifies himself, the deputy presiding officer shall preside.

(c) The assembly shall determine its own rules and order of business and provide for keeping a journal of its proceedings.

(d) A majority of the membership authorized by law constitutes a quorum. In the absence of a quorum, any number less than a quorum may recess or adjourn the meeting to a later date. Actions of the assembly are adopted by a majority of the votes authorized on the question. All assemblymen present shall vote unless the assembly for special reasons permits a member to abstain, except no assemblyman may vote on a question in which he has a substantial direct or indirect financial interest.

(e) The final vote on each ordinance, resolution, or substantive motion is a recorded "yes" or "no", except that if the vote is unanimous it is necessary only so to state.

(f) When the borough assembly votes on an ordinance or resolution in exercising an areawide power and when it votes on the areawide budget, the votes are weighted to enable the assemblymen who represent a majority of the borough's population to have a majority of the votes. Weighted voting applies to all procedures and votes affecting the final outcome of the ordinance or resolution.

(g) The weight to be given to each vote cast by the assemblymen present and voting who represent a home rule or first class city which has a majority of the population is determined by dividing the number of all assembly seats apportioned to the area outside the city plus one by the number of seats apportioned to the city.

(h) The weight to be given to each vote cast by assemblymen present and voting who represent home rule and first class cities

which have a combined majority of the borough's population is determined by dividing the number of all assembly seats apportioned to the area outside cities plus one by the number of all assembly seats apportioned to the home rule and first class cities.

(i) If the area outside home rule and first class cities has the majority of the borough's population, each assemblyman present and voting has one vote.

(j) Fifty borough voters or a home rule or first class city in a borough may petition the assembly or the Local Affairs Agency, or the assembly may petition the agency, to determine from U. S. Bureau of the Census reports or other reliable information whether the votes of the assemblymen representing a home rule or first class city shall be weighted. The petition shall include evidence to indicate that weighted voting should or should not be used. A determination by the Local Affairs Agency prevails over one by the assembly. A determination by either the assembly or the agency is effective immediately, subject to judicial review for abuse of discretion.

Sec. 29.23.070. DEPARTMENTS. (a) The assembly may establish departments and distribute administrative functions among them.

(b) Each department is administered by a department head. With the consent of the assembly, the borough mayor may serve as the head of one or more departments or may appoint one person as the head of two or more departments.

Sec. 29.23.080. ASSEMBLY VACANCIES. (a) The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs.

(b) A vacancy in the city council representation on the assembly is filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

(c) A vacancy in the representation for the area outside a home rule or first class city is filled by a majority of the remaining assemblymen representing the area outside home rule and first class cities, who designate a voter residing outside home rule and first class cities, and if there are borough sections established, a resident of the borough section from which he will serve, to serve until the next regular election.

Sec. 29.23.090. REAPPORTIONMENT. (a) The assembly of home rule and general law boroughs shall be reapportioned by either of the following methods:

(1) The assembly shall reapportion itself when the apportionment does not meet the standards provided in sec. 20 of this chapter. The proposal must be submitted to the Local Affairs Agency for review.

(2) Fifty borough voters or a home rule or first class city in a borough may petition the assembly or the Local Affairs Agency to reapportion the assembly. The petition must include evidence that the apportionment of the assembly does not meet prescribed standards. If it is found from U. S. Bureau of the Census reports or other reliable information that the standards are not met, the assembly or the Local Affairs Agency shall reapportion the assembly. A reapportionment by the Local Affairs Agency prevails over one by an assembly. Reapportionment by the assembly or the agency is subject to judicial review for abuse of discretion.

(b) A reapportionment is effective beginning with the next regular election to the assembly. If reapportionment results in an increase of representation on the assembly, the assembly may determine that the reapportionment is effective before the next regular election. If the assembly makes this determination, the additional seats are

filled as prescribed in sec. 80(a) and (b) of this chapter for filling vacancies, except that additional seats outside home rule and first class cities may be filled without regard to sections.

Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough assembly may, by ordinance adopted without weighted voting, establish, alter, or abolish sections for the election of assemblymen in the area outside home rule and first class cities, except that sections may not be abolished unless a majority of the assemblymen outside home rule and first class cities approve. If it establishes sections, members representing the area outside home rule and first class cities represent the sections in which they reside. The ordinance must state whether assemblymen are elected by all voters outside home rule and first class cities or only by the voters of the section in which they reside. The number of sections equals the number of assemblymen representing the area outside home rule and first class cities. Section boundaries are established in such a way as to provide, insofar as possible, clarity of boundaries, compactness of an area, approximately equal population representation among sections, and homogeneity of interest.

(b) Borough sections shall be reapportioned in the manner prescribed in sec. 90 of this chapter for reapportionment of the assembly.

ARTICLE 2. BOROUGH EXECUTIVE AND ADMINISTRATOR.

Sec. 29.23.130. POWER GENERALLY. (a) If the borough has not adopted a manager plan, the borough executive and administrative power is vested in an elected borough mayor. If the borough has adopted a manager plan, the administrative power is vested in an appointed manager and the executive power in an elected borough mayor who has the same functions as those of the mayor of a manager-plan city under sec. 240 of this chapter.

(b) A borough voter is eligible to be borough mayor.

(c) The borough mayor's regular term of office is three years and until a successor is elected and has qualified and begins on the

first Monday following his election, which is held the first Tuesday of October, unless a different date of election is provided by ordinance. The assembly may provide by ordinance for a different term not to exceed four years, except that the current term of an incumbent borough mayor may not be altered.

(d) A borough may adopt or abandon a manager plan at any time, as provided in secs. 410 - 480 of this chapter. The borough mayor may not veto an ordinance or resolution calling for an election on this question. The manager has all the powers and duties of the borough mayor as chief administrative officer. If the manager plan is adopted, it becomes effective following certification of the results of the first regular election occurring at least six months after adoption of the plan. The borough mayor then serves as borough executive.

Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH ADMINISTRATOR. The borough mayor or manager as the case may be, as the chief administrative officer, is responsible for the proper administration of all borough affairs. The mayor or manager of the borough shall

(1) appoint borough employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.-050; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;

(2) suspend or remove by written order borough employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.050;

(3) supervise enforcement of borough law;

(4) prepare the annual budget and capital improvements program for the assembly;

(5) execute the budget and capital improvement program as adopted;

(6) make monthly reports to the assembly on borough finances and operations;

(7) report to the assembly at the end of each fiscal year on the finances and administrative activities of the borough;

(8) prepare and make available for public distribution an annual report on borough affairs;

(9) serve as borough personnel officer unless the assembly authorizes him to appoint a personnel officer;

(10) direct and supervise the administration of

(A) the functions of all borough officers and employees except as provided otherwise in this title;

(B) the care and custody of all borough buildings and of all real and personal property of the borough, except as provided otherwise by AS 29.33.050;

(C) the construction, maintenance, and operation of all borough roads, bridges, drains, buildings and other public works;

(11) execute other powers or duties specified in this title or lawfully prescribed by the assembly.

Sec. 29.23.150. EXECUTIVE ABSENCE. The borough mayor, subject to assembly approval, shall designate a person to act as mayor during the mayor's temporary absence or disability. If a manager plan has been adopted, the assembly shall designate by resolution a borough administrative officer to act as manager during his absence or disability.

Sec. 29.23.160. ASSEMBLY PARTICIPATION. The borough mayor may take part in the discussion of all matters before the assembly but may not vote.

Sec. 29.23.170. VETO. (a) Except as provided in (b) of this section, the borough mayor may veto any ordinance,

resolution, motion or other action of the assembly and may, by veto, strike or reduce items in appropriation ordinances except for school budget items. He shall submit to the assembly at its next regular meeting a written statement advising of his veto and giving his reasons. His veto may be overridden by two-thirds of all the votes to which the assembly is entitled on the question.

(b) The borough mayor may not veto actions of the assembly taken under sec. 130(d) of this chapter or actions of the board of equalization and the board of adjustment.

Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office of the borough mayor occurring within six months of a regular election shall be filled by the assembly. The person designated shall serve until the next regular election and until a successor is elected and has qualified. If an assemblyman is chosen, he shall resign his assembly seat. If a vacancy occurs more than six months before a regular election, the assembly shall call a special election to fill the unexpired term.

ARTICLE 3. CITY COUNCIL

Sec. 29. 23.200. COMPOSITION, ELIGIBILITY, ELECTION AND TERM. (a) Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at large basis for all members.

(b) A city voter is eligible to hold the office of councilman. A council member who ceases to be eligible to be a city voter immediately forfeits his office.

(c) An election is held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance, to choose councilmen for three-year terms and

until their successors are elected and have qualified. The regular term of office begins on the first Monday following the election. The council may provide by ordinance for different terms not to exceed four years, except that the current term of incumbent councilmen may not be altered.

Sec. 29.23.210. PROCEDURE. (a) The council shall meet at least once every month, unless otherwise provided by ordinance. Special meetings may be held on the call of the mayor or two councilmen upon not less than 24 hours written or oral notice communicated to each member.

(b) The council shall determine its own rules and order of business and provide for keeping a journal of its proceedings.

(c) Four councilmen constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution, or motion.

(d) The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. All councilmen present shall vote unless the council, for special reasons, permits a member to abstain.

Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall designate a person to fill the vacancy until the next regular election, and until a successor is elected and has qualified.

ARTICLE 4. CITY EXECUTIVE AND ADMINISTRATOR.

Sec. 29.23.240. MAYOR. Each city has a mayor as executive who shall preside at council meetings, act as ceremonial head of the city, and sign documents on the city's behalf upon council authorization. In cities which have not adopted a manager plan, the mayor is responsible for the duties listed in sec. 290 of this chapter.

Sec. 29.23.250. ELECTION AND TERM OF MAYOR. (a) A voter of a

home rule or general law city is eligible to hold the office of mayor, except that a home rule city may prescribe additional residency requirements by charter.

(b) The mayor of a first class city is elected at large for a term of three years and until a successor is elected and has qualified. The council may provide by ordinance for a different term not to exceed four years, except that the current term of an incumbent mayor may not be altered.

(c) The mayor of a second class city is elected by and from the council for a term equal in length to a councilman's term.

(d) The mayor's regular term begins on the first Monday following his election, which is held on the first Tuesday of October, unless a different date of election is provided by ordinance. The council of a second class city shall meet on the first Monday after the regular election date and elect a mayor who takes office immediately.

Sec. 29.23.260. MAYOR'S VOTE. (a) The mayor of a first class city is not a council member and may vote only in the case of a tie.

(b) The mayor of a second class city is a council member and may vote on all matters.

Sec. 29.23.270. VETO. (a) The mayor of a first class city may veto any ordinance, resolution, motion, or other action of the council and may, by veto, strike or reduce items in appropriation ordinances except, in a city outside an organized borough, for school budget items. He shall submit to the council at its next regular meeting a written statement advising of his veto and giving his reasons. A veto is overridden by the vote of two-thirds of the authorized membership of the council.

(b) The mayor of a second class city has no veto power.

Sec. 29.23.280. FILLING A VACANCY. (a) In a first class city,

a vacancy in the office of mayor occurring within six months of a regular election shall be filled by the council. Theperson designated shall serve until the next regular election and until a successor is elected and has qualified. If a councilman is chosen, he shall resign his council seat. If a vacancy occurs more than six months before a regular election, the council shall call a special election to fill the unexpired term.

(b) In a second class city, a vacancy in the office of mayor is filled by and from the council.

Sec. 29.23.290. POWERS AND DUTIES OF CITY MANAGER. If the city has a manager, he is the chief administrative officer. The manager shall

(1) appoint city employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.-050; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;

(2) suspend or remove by written order city employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.050;

(3) supervise enforcement of city law;

(4) prepare the annual budget and capital improvement program for the council;

(5) execute the budget and capital program as adopted;

(6) make monthly financial reports to the council on city finances and operations;

(7) report to the council at the end of each fiscal year on the finances and administrative activities of the city;

(8) prepare and make available for public distribution an annual report on city affairs;

(9) serve as city personnel officer unless the council authorizes him to appoint a personnel officer;

(10) execute other powers and duties specified in this title or lawfully prescribed by the council.

ARTICLE 5. SCHOOL BOARDS.

Sec. 29.23.310. ELECTION. Each borough and city school district has a school board. Members are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance, for three-year terms and until their successors take office. All board members are elected at large, but school zones for the election of borough school boards may be established, altered, or abolished as provided by sec. 100 of this chapter.

ARTICLE 6. UTILITY BOARDS.

Sec. 29.23.340. UTILITY BOARDS. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of the board are appointed by the municipal executive and confirmed by the assembly or council or are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. The term of a utility board member is two years and until a successor is selected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years and not altering the current term of an elected incumbent.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on a utility board serves until

the expiration of the term and until a successor is elected and has qualified.

(d) Unless otherwise provided by ordinance, the board shall

(1) choose its chairman and secretary;

(2) appoint the manager of the public utility for a term not longer than five years and set his salary;

(3) formulate and enforce the general rules and policies of the utility.

ARTICLE 7. OTHER OFFICERS AND EMPLOYEES.

Sec. 29.23.360. APPOINTMENT OF OFFICERS. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief administrator are subject to confirmation by the governing body.

Sec. 29.23.370. MUNICIPAL ATTORNEY. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed.

Sec. 29.23.380. MUNICIPAL CLERK. (a) The municipal clerk shall

(1) give notice of the time and place of meetings to the assembly or the council and to the public;

(2) attend meetings and keep the journal;

(3) arrange publication of notices, ordinances, and resolutions;

(4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules,

regulations, and codes;

(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the faithful performance of his duties as clerk-treasurer.

Sec. 29.23.390. MUNICIPAL TREASURER. (a) The treasurer is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum which the assembly or council directs.

ARTICLE 8. ADOPTION OR REPEAL OF MANAGER PLAN.

Sec. 29.23.410. APPLICATION. A municipality may adopt a manager plan of government.

Sec. 29.23.420. PETITION. Adoption of a manager plan may be initiated either by petition or upon motion of the assembly or council. A petition for the adoption of a manager plan is submitted to the assembly or council. The petition must be signed by a number of municipal voters equal to the following per cent of the votes cast at the preceding regular election:

(1) 25 per cent when the municipality has fewer than 7,500 persons;

(2) 15 per cent when the municipality has 7,500 persons or more.

Sec. 29.23.430. ELECTION. Upon receipt of the petition or upon its motion, the assembly or council shall provide by ordinance or

resolution for a vote on the question at the next regular or special election. Notice of the election shall be published at least 30 days before the election.

Sec. 29.23.440. ADOPTION. (a) If the manager plan is approved, the assembly or council shall adopt the plan by ordinance or resolution.

(b) The assembly or council shall notify the Local Affairs Agency of the adoption of the manager plan.

Sec. 29.23.450. APPOINTMENT. The assembly or council shall appoint a manager by a majority vote of its membership. He is chosen solely on the basis of his executive and administrative qualifications and receives the compensation set by the assembly or council. An elected municipal official may not be appointed manager of the municipality sooner than one year after leaving office, except that, by a vote of three-fourths of its authorized membership, the assembly or council may at any time appoint one of its members or other elected municipal officials as manager.

Sec. 29.23.460. TERM. Subject to the contract of employment, the manager holds office at the pleasure of the assembly or council.

Sec. 29.23.470. APPOINTMENT OF TEMPORARY OR NEW MANAGER. In the absence or disability of the manager, the assembly or council shall appoint a temporary manager. If the office becomes vacant, the assembly or council shall appoint a new manager.

Sec. 29.23.480. REPEAL. A municipality may repeal the manager plan in the same manner used for its adoption. At the first meeting after repeal, the assembly or council shall enact provisions for the reorganization of the municipal executive and chief administrator.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

Sec. 29.23.500. OATHS OF OFFICE. Municipal officers, before taking office, shall affirm in writing that they will honestly, faith-

fully, and impartially perform their duties. The oath is filed with the municipal clerk.

Sec. 29.23.510. COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

Sec. 29.23.520. BONDING. The administrator and the other municipal officers or employees which the assembly or council may designate shall give bond in the amount and with the surety prescribed by the assembly or council. Premiums on bonds are paid by the municipality.

Sec. 29.23.530. SALARIES OF ELECTED OFFICERS NOT TO BE VARIED. The assembly or council may fix by ordinance the salaries of elected officers before they are elected. Salaries may not be changed during a term of office. An elected officer may not receive any other compensation for service to the municipality. Per diem payments or reimbursements for expenses are not compensation under this section.

Sec. 29.23.540. PROHIBITIONS. (a) No person may be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of his race, color, sex, creed, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations.

(b) This section applies to home rule and general law municipalities.

Sec. 29.23.550. PERSONNEL SYSTEM. All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system.

Sec. 29.23.560. REPORTS. (a) Home rule and general law municipalities shall file with the Local Affairs Agency:

(1) maps and descriptions of all annexed or excluded territory;

(2) a copy of the annual audit or in the case of second

class cities an audit or statement of annual income and expenditures;

(3) tax assessment figures as requested;

(4) reports relating to long-term debt as provided in AS 44.19.205.

(b) Compliance with the provisions of this section is a prerequisite to receipt of state shared-revenues under AS 43.18. The state shall withhold annual allocations under that chapter in the event of noncompliance until such time as the report requirements are complied with.

Sec. 29.23.570. VACANCIES. An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the assembly or council. The assembly or council shall declare an elective office vacant when the person elected

(1) fails to qualify or take office within 30 days after his election or appointment;

(2) is physically absent from the municipality for a 90-day period, unless excused by the assembly or council;

(3) resigns and his resignation is accepted;

(4) is physically or mentally unable to perform the duties of his office;

(5) is removed from office;

(6) misses three consecutive regular meetings unless excused; or

(7) is convicted of a felony or of an offense involving a violation of his oath of office.

Sec. 29.23.580. MEETINGS PUBLIC. Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The assembly and council shall provide reasonable opportunity for the public to be

heard at regular and special meetings. This section applies to home rule and general law municipalities.

CHAPTER 28. ELECTIONS.

ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

Sec. 29.28.010. ADMINISTRATION. (a) The borough assembly or city council shall prescribe the general rules for conducting municipal elections and appoint at least three judges for each polling place. The municipality may not alter voter qualification requirements of this title.

(b) This section applies to home rule and general law municipalities.

Sec. 29.28.015. NOMINATIONS. (a) The assembly or council shall provide by ordinance for nominations of elected officers by providing for declaration of candidacy, or petition requiring the signatures of not more than 10 voters, or both.

(b) A person may be nominated for and occupy more than one office, but he may not serve simultaneously as borough mayor and as a member of the borough assembly or as mayor and as a member of the council of a first class city.

Sec. 29.28.020. ELECTION DATES. (a) The date of a regular municipal election is the first Tuesday of October annually, or on a date of election or at an interval of years provided by ordinance.

(b) The assembly or council may call a special election upon at least 20 days notice.

Sec. 29.28.030. VOTER QUALIFICATION. A person may vote only if he is a United States citizen who is qualified to vote in state elections and has been a resident of the municipality for 30 days immediately preceding the election and who is registered to vote in state elections and is not disqualified under art. V of the state constitution. Voter

registration by the municipality may not be required. This section applies to home rule and general law municipalities.

Sec. 29.28.040. MAJORITY ELECTIONS. If in a municipal election no candidate receives in excess of 40 per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks from the date of certification of the election between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least five days before the election. The assembly or council may by ordinance require a majority vote for election of officials. A runoff election or other means of obtaining a majority may be used.

Sec. 29.28.050. ELECTION CONTEST AND APPEAL. (a) The assembly or council may provide by ordinance the time and procedure for the contest of an election.

(b) Unless otherwise provided by ordinance an election may be contested only upon the filing, before or at the time of the first canvass of ballots by the assembly or council, by a person qualified to vote in the municipality of his written affidavit specifying with particularity the grounds for the contest or invalidity of the election.

(c) Unless otherwise provided by ordinance, the assembly or council shall declare the election results at the first meeting to canvass the election and record the results in the minutes of that meeting.

(d) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two per cent.

(e) No person may appeal or seek judicial review of a city or borough election for any cause or reason unless the person is qualified to vote in the municipality, has exhausted his administrative remedies before the assembly or council and has commenced, within 10 days after the assembly

or council has finally declared the election results, an action in the superior court in the judicial district in which the municipality is located. If no such action is commenced within the 10-day period, the election and election results shall be conclusive, final and valid in all respects.

ARTICLE 2. INITIATIVE AND REFERENDUM.

Sec. 29.28.060. RESERVATION OF POWERS. The powers of initiative and referendum are reserved to the residents of municipalities except the powers do not extend to matters restricted by sec. 7, art. XI, of the state constitution.

Sec. 29.28.062. PETITION. A petition for initiative or referendum is filed with the municipal clerk and an initiative petition must be filed not less than 90 days before the next regular election.

Sec. 29.28.065. CONTESTS OF PETITION. A petition for an initiative or referendum shall

(1) embrace only a single comprehensive subject;

(2) set out fully the ordinance or resolution sought by the petition;

(3) state upon the petition, when circulated, the date of first circulation of the petition;

(4) contain the statement, when circulated, that the signatures on the petition must be secured within 90 days from the date of the first circulation;

(5) have the required signatures, dates of signatures and resident addresses of the signers.

Sec. 29.28.070. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 90 days from the date of the first circulation of the petition. The petition shall be signed in ink or indelible pencil.

(b) Every petition for either the initiative or referendum in the government of a municipality shall be signed by a number of qualified voters residing within the territorial limits of the municipality, or, if the act sought to be initiated or referred pertains exclusively to the area outside cities or to a service area, by a number of qualified voters residing within the area outside cities or within the service area, as the case may be, equal to the following per cent of the total number of votes cast at the last general election in the city or borough or borough area concerned, or special election called for the purpose of electing city or borough officers:

(1) 25 per cent, when a city or borough has fewer than 7,500 persons, or

(2) 15 per cent, when a city or borough has 7,500 persons or more.

(c) When signing a petition each voter shall write or print after his signature the date of signing the petition and his resident address.

(d) Illegible signatures unless accompanied by a legible printed name may be rejected by the municipal clerk.

(e) A petition signer may withdraw his signature upon written application to the clerk within seven days after the petition has been filed with the clerk.

Sec. 29.28.073. SUFFICIENCY OF PETITION. (a) Within 10 days from the filing date, the municipal clerk shall certify on the petition whether or not it is sufficient.

(b) If the petition is insufficient, it may be amended or supplemented within 10 days after the date on which the petition is rejected as insufficient.

(c) Within 10 days after supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is

rejected and filed as a public record.

Sec. 29.28.075. PROTEST. If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest with the municipal executive within seven days after the certification and the municipal executive shall present the protest at the next regular meeting to the assembly or council which shall hear and decide the protest.

Sec. 29.28.077. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

Sec. 29.28.080. PRESENTATION OF INITIATIVE. (a) When a petition seeks enactment of an ordinance or resolution within the powers of the assembly or council and not otherwise restricted by sec. 60 of this chapter, the clerk shall present it to the assembly or council at its next meeting after certification. The assembly or council may reject the petition if the subject matter of the initiative or referendum is within the restrictions of sec. 60 of this chapter.

(b) Unless the petition is granted within 30 days of its submission to the assembly or council, the clerk shall, with the assistance of the municipal attorney, prepare an ordinance or resolution to implement the petition and shall submit it to the voters at the next regular election. The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.

(c) If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared.

(d) The assembly or council may at any time not less than 10 days from the date of election adopt an ordinance or resolution to implement the petition. In that event an election shall not be held.

Sec. 29.28.090. PRESENTATION OF REFERENDUM. (a) When a petition seeks a referendum vote on an ordinance or resolution, the clerk shall submit the ordinance to the voters of the municipality at the next regular or special election. If no regular or special election occurs within 75 days of the filing of a sufficient petition with the clerk, the assembly or council shall hold a special election within 75 days of filing.

(b) If a sufficient petition for referendum is filed within 30 days after final passage of the ordinance, or before the effective date of the ordinance, the ordinance against which the petition is filed shall be suspended pending the referendum on the ordinance. During the period of suspension the council may not enact an ordinance substantially similar to the suspended ordinance but may repeal the suspended ordinance.

(c) If a majority of those voting favor the referendum legislation, it remains in effect. If a majority rejects the legislation, it is repealed. A municipal charter may be amended as provided in the charter or by initiative and referendum as provided in secs. 60 - 110 of this chapter.

Sec. 29.28.110. EFFECT. (a) The assembly or council may not, within two years, act in any way to modify or negate the effect of a successful initiative or referendum. If an ordinance against which a referendum directed has been repealed by the assembly or council after a petition has been filed but before the referendum, the council or assembly may not enact substantially similar legislation for a period of one year after repeal.

(b) An unsuccessful initiative or referendum precludes the filing of a new petition for the same purpose sooner than six months after voter disapproval of the initiative or referendum.

ARTICLE 3. RECALL.

Sec. 29.28.130. RECALL. An elected official of a home rule or

Sec. 29.28.180. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new recall petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

Sec. 29.28.190. SUBMISSION. If a recall petition is sufficient, the clerk shall immediately submit it to the assembly or council.

Sec. 29.28.200. ELECTION. (a) If a regular election occurs within 75 days of the submission, the assembly or council shall submit the recall at that election.

(b) If no regular election will occur within 75 days, the assembly or council shall hold a special election within 75 days of submission.

(c) If a vacancy occurs in the office after a recall petition is filed, the petition shall not be submitted to the voters.

Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot contains:

(1) the grounds as stated in the recall petition;

(2) the officer's statement of 200 words or less, if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]".

Sec. 29.28.220. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular election.

Sec. 29.28.230. MAJORITY REQUIRED. A majority vote on the question is required to recall an officer.

Sec. 29.28.240. EFFECT. If an incumbent is not recalled at the recall election, a petition to recall the same incumbent may not be filed sooner than six months after the recall election.

general law municipality may be recalled by the voters after he has served six months in office.

Sec. 29.28.140. GROUNDS. Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

Sec. 29.28.150. PETITION. (a) A petition seeking recall of one or more municipal officials is filed with the municipal clerk. The petition shall contain

(1) the signatures and resident addresses of a number of voters as prescribed in sec. 70(b) of this chapter for initiative and referendum;

(2) the date each voter signed the petition; and

(3) a statement of the grounds of the recall stated with particularity as to specific instances.

(b) A petition for recall must be filed with the clerk within 60 days after the date of the earliest signature on the petition.

Sec. 29.28.160. EXAMINATION FOR SUFFICIENCY. The municipal clerk shall review the petition for content and signatures and shall certify on the petition within 10 days of the filing date whether it is accepted or rejected. Until the petition is accepted, a petition signer may withdraw his signature upon written application to the clerk.

Sec. 29.28.170. SUPPLEMENTAL PETITION. (a) If the petition is rejected because of insufficient signatures, it may be supplemented by additional signatures within 10 days after the date of rejection. If the petition is insufficient for any other reason, it shall be rejected and filed as a public record.

(b) Within 10 days after supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Sec. 29.28.250. ELECTION OF SUCCESSOR. If the voters recall an officer, the clerk shall conduct an election for a successor to fill the unexpired term. The election shall be held at least 10 but not more than 45 days from the date of the recall election. However, if a regular or special election occurs within 75 days of the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section

CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES.

ARTICLE 1. SCOPE.

Sec. 29.33.010. SCOPE OF AREAWIDE POWERS. (a) Boroughs shall exercise the powers as specified and in the manner specified in this chapter on an areawide basis, both inside and outside cities within their boundaries.

(b) No city, whether home rule or not, may exercise an areawide power conferred in, or assumed by means of secs. 250 - 290 of, this chapter once that power is being exercised by a borough.

ARTICLE 2. ASSESSMENT AND COLLECTION OF TAXES.

Sec. 29.33.030. ASSESSMENT AND COLLECTION. Boroughs shall assess and collect property, sales, and use taxes levied within their boundaries, subject to ch. 53 of this title. Taxes levied by a city and collected by a borough are returned in full to the levying city.

ARTICLE 3. EDUCATION.

Sec. 29.33.050. EDUCATION. Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060.

ARTICLE 4. PLANNING, PLATTING AND ZONING.

Sec. 29.33.070. PLANNING, PLATTING AND ZONING. (a) Boroughs

shall provide for planning, platting and zoning on an areawide basis.

(b) If a city within a borough is located more than 25 miles from a boundary of the borough seat, the assembly by ordinance may

(1) designate the council of the city as a board of adjustment within the city;

(2) delegate other planning and zoning administrative and enforcement responsibilities to the city, provided that borough jurisdiction is not impaired;

(3) withdraw powers delegated under this subsection.

Sec. 29.33.080. PLANNING COMMISSION. (a) The borough planning commission consists of five residents unless a greater number is otherwise provided by ordinance. Commission membership shall be apportioned so that the number of members from first class cities reflects the proportion of borough population residing within those cities. Members shall be appointed by the borough executive for a term of three years subject to confirmation by the assembly, except that appointments of members from first class cities are selected from a list of recommendations submitted by the city council. Members first appointed shall draw lots for one-, two- and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly.

(b) The commission shall prepare and recommend to the assembly

(1) a comprehensive plan consisting of maps and related texts for the systematic development of the borough;

(2) a zoning ordinance to implement the plan;

(3) a subdivision ordinance;

(4) the official map of the borough;

(5) modifications to the documents specified in (1) - (4) of this section

(c) The commission shall publish notice of and hold at least one hearing before submitting its recommendations under (b) of this section to the assembly.

(d) The commission shall

(1) act as the platting board;

(2) act upon requests for variances;

(3) act upon requests for conditional uses.

(e) Subject to sec. 245 of this chapter, no platting request, variance or conditional use may be granted except upon an affirmative vote of a majority of the commission.

(f) The commission shall designate its presiding officer and shall meet as frequently as is necessary. The commission shall establish, subject to approval by the assembly, rules and regulations for the conduct of its meetings. Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the municipal clerk and retained as public records.

Sec. 29.33.085. COMPREHENSIVE PLAN. (a) The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the borough, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.

(b) The assembly shall adopt a comprehensive plan based upon the recommendations of the planning commission. The assembly may modify the plan, provided that it first obtains the recommendations of the planning commission. The planning commission shall undertake an overall review of the plan at least once every two years and shall present

recommendations based on the review to the assembly.

Sec. 29.33.090. ZONING. (a) In accordance with the comprehensive plan, the assembly shall regulate and restrict the use of land and improvements by districts. Regulations shall be uniform for each class or kind of building, structure, land or water area within each district, but the regulations may differ among districts and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments.

(b) Zoning regulations adopted under (a) of this section may include, but are not limited to, restriction of

(1) land use,

(2) building location and use;

(3) the height and size of structures;

(4) the number of stories in buildings;

(5) the percentage of lot which may be covered;

(6) the size of open spaces;

(7) population density and distribution.

(c) Zoning regulations are designed to

(1) provide for orderly development;

(2) lessen street congestion;

(3) promote fire safety and public order;

(4) protect the public health and general welfare;

(5) prevent overcrowding;

(6) stimulate systematic development of transportation, water, sewer, school, park and other public facilities.

Sec. 29.33.110. BOARD OF ADJUSTMENT. (a) The assembly is the board of adjustment for areas outside cities. The city council is the board of adjustment for the area within the city boundaries but may delegate by resolution or ordinance part or all of its functions to the

borough, subject to sec. 70(b)(1) of this chapter, in addition to making delegations as provided for an assembly under sec. 245 of this chapter. Meetings of the borough board are held at the call of the presiding officer and of the city board by the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

(b) The board of adjustment shall hear and decide

(1) appeals regarding alleged errors in enforcement of zoning ordinances and building codes;

(2) appeals from the decisions of the planning commission on requests for conditional uses;

(3) appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.

(c) A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited.

Sec. 29.33.120. ADJUSTMENT PROCEDURE. An interested party, including but not limited to a borough or city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the borough clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent

peril to life or property made by the enforcement officer.

Sec. 29.33.130. JUDICIAL REVIEW. (a) The assembly shall provide by ordinance for appeals from the board of adjustment to the superior court.

(b) A municipal officer, a taxpayer, or a person, jointly or severally aggrieved, may appeal an action of the board to the superior court by filing with the borough clerk within the time fixed by ordinance, a notice of appeal specifying grounds. When the notice of appeal is filed, the board shall at once transmit to the superior court clerk copies of all the papers constituting the record in the case.

(c) An appeal from the board of adjustment stays enforcement proceedings unless the court issues an enforcement order based on a certificate of imminent peril to life or property made by the board.

(d) The appeal is heard upon the record by the superior court, and the court may reverse or affirm, wholly or partly, the decision appealed from.

(e) Issues in proceedings under this section have preference over all other civil actions and proceedings. An appeal lies from the decision of the superior court as in other civil cases.

Sec. 29.33.150. PLATTING JURISDICTION AND POWER. The planning commission acting as the platting board has jurisdiction over platting and shall adopt and publish rules and regulations to implement this power. Jurisdiction includes, but is not limited to, the control of

(1) form, size, and other aspects of subdivisions, dedications, and vacations of land;

(2) dimensions of lots or tracts;

(3) street width, arrangement, and right-of-way, including allowance for access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage, and other public utility facilities and improvements.

Sec. 29.33.160. PROCEDURE. (a) The platting board shall within 60

days of filing approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010 - 40.15.-020.

Sec. 29.33.170. WAIVER IN CERTAIN CASES. (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of secs. 29.33.150 - 29.33.240 of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a

street, alley, thoroughfare, park or other public area is involved or required.

Sec. 29.33.180. INFORMATION REQUIRED. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance.

Sec. 29.33.190. PENALTIES. (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a

misdemeanor and upon conviction is punishable by a fine of not more than $500 for ea h lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale, or contract tc sell, and may recover the penalty by appropriate legal action.

(b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A pers n who knowingly violates this requirement is punishable upon co ction by a fine of not more than $500.

Sec. 29.33.200. ALTERATION OR REPLAT PETITION. No recorded plat may be altered or replatted except upon petition of the owners of a majority of the land affected by the alteration or replat or by the platting board. No platted street may be vacated, except upon petition of the municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

Sec. 29.33.210. NOTICE OF HEARING. The platting board shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The board shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The board shall also mail a copy of the notice to each affected property owner not signing the petition.

Sec. 29.33.220. HEARING AND DETERMINATION. At the hearing the platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street

may be made without the consent of the city council. No vacation of a street in the borough area outside cities may be made without the consent of the borough assembly. The assembly or council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city or borough shall be considered to have been given to the vacation.

Sec. 29.33.230. RECORDING. If the alteration or replat is approved, the revised plat must be recorded by the platting board and is thereafter the lawful plat.

Sec. 29.33.240. TITLE TO VACATED AREA. (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

(b) If the borough or city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the borough or city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority

to be paid over to the borough or city on final vacation.

Sec. 29.33.245. DELEGATIONS. The assembly may by ordinance authorize the planning commission, the platting board and the board of adjustment to delegate powers to hear and decide cases under this chapter in a manner authorized by the ordinance, including but not limited to delegations to one or more members of the commission or board, to other boards or commissions, or to a hearing officer designated by the commission or board. The assembly shall prescribe procedures for hearings and appeals. The commission or board shall hear and decide appeals de novo.

ARTICLE 5. ADDITIONAL AREAWIDE POWERS.

Sec. 29.33.250. ADDITIONAL AREAWIDE POWERS. First and second class boroughs acquire additional areawide municipal powers by transfer from a city or by holding an areawide election on the question, except as provided otherwise in AS 29.48.030 and 29.48.035(b).

Sec. 29.33.260. TRANSFER BY CITY. (a) A city may transfer to the first or second class borough in which it is located any of its powers or functions, subject to the approval of the borough assembly.

(b) First and second class boroughs shall exercise all powers transferred to them by cities.

Sec. 29.33.270. PETITION FOR POWER. An election on the question of adding an areawide power may be initiated in two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the borough at the preceding regular election may file a petition w th the assembly, or

(2) the assembly may propose the acquisition of the power.

Sec. 29.33.280. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and

make its findings public.

Sec. 29.33.290. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(b) If more than one power is proposed, each appears separately on the ballot.

(c) The borough mayor shall certify the election results to the Local Affairs Agency. The vote on the question of adding an areawide power shall be tabulated in two separate classifications. One shall consist of all votes cast in the home rule and first class cities of the borough. The other shall consist of all votes cast in the remaining borough area. If the majority of the votes cast in each classification is favorable, the borough shall assume the added power within 30 days of certification of the election results. Upon acquisition of an areawide power the borough succeeds to all of the rights, powers and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises and other contractual obligations, liability for bonded and all other indebtedness and to all of the right, title and interest in the real and personal property held by the city or service area for the exercise of the power. The borough assembly may levy and collect special charges, taxes or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the city or service area for continuing services in the area. When a city or service area had previously incurred bonded indebtedness, no less than all property that was within the city or service area at the time the bonds were issued shall remain subject to taxation to pay the principal of and interest on the bonds for as

long as they remain outstanding. Upon acquisition of additional areawide powers the borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties and other matters related to acquisition of the areawide powers. This subsection applies to home rule and general law cities.

CHAPTER 38. BOROUGH POWERS AND DUTIES IN THE AREA OUTSIDE CITIES.

Sec. 29.38.010. FIRST CLASS BOROUGH. The first class borough may exercise in the area outside cities any general law municipal power. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.38.020. SECOND CLASS BOROUGH. The second class borough may exercise in the area outside cities municipal powers approved at incorporation, conferred by AS 29.48.020, or added as provided in this chapter. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.38.030. ADDITIONAL POWERS. The second class borough may initiate the acquisition of additional powers outside cities in either of two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the area outside cities at the preceding regular election may file a petition with the assembly, or

(2) the assembly may place the question on the ballot.

Sec. 29.38.040. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and

make its findings public.

Sec. 29.38.050. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election on the question in the borough area outside cities. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(b) If more than one power is proposed, each appears separately on the ballot.

(c) The borough mayor shall certify the election results to the Local Affairs Agency. If the majority of the votes cast on the question is favorable, the borough shall assume the added power within 30 days of certification of election results.

CHAPTER 41. POWERS OF THIRD CLASS BOROUGHS.

Sec. 29.41.010. POWERS OF THIRD CLASS BOROUGHS. (a) A third class borough shall exercise the areawide powers of education and tax assessment and collection in the manner provided for second class boroughs. Provisions of law relative to first and second class organized boroughs apply with respect to third class boroughs only to the extent they are consistent with this chapter.

(b) A third class borough may establish, operate, alter or abolish service areas in the manner provided for second class boroughs.

(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.-58.150 - 29.58.340.

Sec. 29.41.020. ASSEMBLY TO SERVE AS SCHOOL BOARD. The borough assembly is the borough school board for third class boroughs. Where applicable, weighted voting shall apply to board decisions. The borough executive is the presiding officer of the borough assembly and president

of the school board. The borough executive has all powers of a borough executive except for the veto power.

CHAPTER 43. POWERS OF CITIES OUTSIDE BOROUGHS.

Sec. 29.43.010. ADDITIONAL POWERS. In addition to the powers granted by ch. 48 of this title, cities outside boroughs are granted the powers specified in this chapter. Powers of this chapter which are incorporated by reference to laws governing boroughs apply to home rule cities outside boroughs only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Sec. 29.43.020. ASSESSMENT AND TAX COLLECTION. Home rule and first class cities outside boroughs may assess, levy and collect a general property tax. A property tax if levied must be assessed, levied and collected as provided by ch. 53 of this title for boroughs. Cities outside boroughs may levy and collect sales and use taxes as provided by ch. 53 of this title for boroughs.

Sec. 29.43.030. EDUCATION. Home rule and first class cities outside boroughs constitute city school districts and establish, maintain, and operate a system of public schools as provided by AS 29.33.050 for boroughs.

Sec. 29.43.040. PLANNING AND ZONING. Home rule and first class cities outside boroughs shall, and second class cities outside boroughs may, provide for planning, platting and zoning, as provided by AS 29.33.070 - 29.33.245 for boroughs.

CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES.

ARTICLE 1. GENERAL POWERS.

Sec. 29.48.010. GENERAL POWERS. Municipalities have the following general powers, subject to other provisions of law:

(1) to establish and prescribe the functions of municipal departments, offices or agencies;

(2) to establish and prescribe salaries for the elected and appointed municipal officers and employees;

(3) to make investigations of the affairs of the municipality and make inquiries into the conduct of a municipal department;

(4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;

(5) to require periodic and special reports from a municipal department to be submitted through the municipal executive;

(6) to sue and be sued;

(7) to levy taxes and special assessments;

(8) to enforce ordinances and to prescribe penalties for violations;

(9) to acquire, manage, control, use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries;

(10) to acquire membership in organizations which promote legislation for the good of the municipality;

(11) to expend funds for community purposes for the good of the municipality;

(12) to borrow money and issue evidences of indebtedness.

Sec. 29.48.020. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES. A second class borough may in the area outside cities

(1) regulate or prohibit the offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(2) provide for the licensing, impounding, and disposition of animals;

(3) regulate the licensing and operation of motor vehicles

and operators;

(4) regulate snow vehicles as provided in AS 05.30.070;

(5) provide for garbage and solid waste collection and disposal subject to sec. 33 of this chapter;

(6) provide for water pollution control.

ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

Sec. 29.48.030. MUNICIPAL FACILITIES AND SERVICES. (a) A municipality may exercise the powers necessary to provide the following public facilities and services:

(1) streets and sidewalks;

(2) sewers and sewage treatment facilities;

(3) harbors, wharves, and other marine facilities;

(4) watercourse and flood control facilities;

(5) health services and hospital facilities;

(6) cemeteries;

(7) police protection and jail facilities;

(8) cold storage plants;

(9) telephone systems;

(10) light, power and heat;

(11) water;

(12) transportation systems;

(13) community centers;

(14) libraries;

(15) recreation facilities;

(16) airport and aviation facilities;

(17) garbage and solid-waste collection and disposal service and facilities subject to sec. 33 of this chapter;

(18) fire protection service and facilities;

(19) parking and parking facilities;

(20) housing and urban renewal, rehabilitation and development;

(21) preservation, maintenance and protection of historic sites, buildings and monuments;

(22) consumer protection.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section or sec. 33(a) of this chapter only after they have been assumed in the manner required under AS 29.33.250 - 29.33.290 for areawide exercise or in the manner required under AS 29.-38.010 - 29.38.050 for exercise in the borough area outside cities, or are conferred by sec. 20 of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The commission shall decide whether exercise of the powers exclusively by the borough areawide is to be approved as in the public interest under the particular facts and circumstances at issue.

Sec. 29.48.033. GARBAGE AND SOLID WASTE SERVICES. (a) The municipality may by ordinance provide for the establishment, maintenance and operation of a system of garbage and solid waste collection and disposal for the entire municipality or for districts or portions of it; require all persons within the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance; award contracts for collection and disposal,

or provide for the collection and disposal of garbage and solid waste by municipal officials and employees; pay for garbage and solid waste collection and disposal from available funds; require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality and fix charges against the property owners or occupants of premises for the collection and disposal; provide that charges for collection and disposal shall be paid by the property owner or occupants of the premises; and provide penalties for violations of the ordinances.

(b) The council of a first or second class city may not prohibit a person holding a valid permit from the Alaska Transportation Commission from continuing to collect and dispose of garbage and solid waste and provide other related services in an area annexed by the city if the permit authorizes the collection and disposal of garbage and solid waste and the providing of other services in the area annexed by the city and the permit was originally issued before the area was annexed by the city. If a city provides for a garbage and solid waste collection and disposal system in an annexed area already serviced by a person allowed to continue under this subsection, the city may not charge less than the rate set for garbage and solid waste collection and disposal by the Alaska Transportation Commission for common carriers.

(c) If the council determines that it is not in the public interest for the city to provide garbage and solid waste collection and disposal and related services under the restrictions of (b) of this section, it may exercise the power of eminent domain to acquire, at the fair market value, from the person providing the services, that portion of the operating authority representing the services within the city. The fair market value shall be based on

the economic loss to the permit holder. If an eminent domain proceeding is instituted, the council may exercise the power through the filing of a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment.

(d) This section applies to home rule and general law municipalities.

Sec. 29.48.035. REGULATORY POWERS. (a) A municipality may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

(1) licensing and operation of motor vehicles, including snow vehicles, and operators;

(2) licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers or baggage;

(3) vehicle parking and traffic;

(4) transportation fares;

(5) licensing, impounding and disposition of animals;

(6) selling of goods;

(7) selling of food;

(8) abandoned property;

(9) dangerous and disorderly conduct;

(10) alcoholic beverages as provided by AS 04.15.070;

(11) recreational devices as provided by AS 05.20.100;

(12) control of insects and rodents;

(13) offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(14) building, housing and related codes, which may be provided by cities within cities or, in the manner required in

(b) or (c) of this section, by first or second class boroughs in the borough area outside cities or areawide; exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;

(15) condemnation and abatement of public nuisances and hazards;

(16) garbage and solid-waste collection and disposal;

(17) water pollution control;

(18) air pollution control as provided in AS 18.30;

(19) other powers and functions affecting the general health, safety, well-being and welfare of its inhabitants.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.33.250 - 29.33.290 for areawide exercise or in the manner required under AS 29.38.010 - 29.38.050 for exercise in the borough area outside cities or are conferred by sec. 20 of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17) and (18) of this section, exercise of the powers areawide or, as to (a)(5) and (17), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for a areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

(c) The provisions of (b) of this section notwithstanding,

boroughs which on the effective date of this Act are exercising building, housing or related code powers, except as those code powers relate to flood control, on an areawide basis or in the borough area outside cities shall, subject to acquisition of the powers on an areawide basis by transfer or election as provided in (b) of this section, exercise the powers in the borough area outside cities and, upon agreement of the city and borough, within any city, home rule or otherwise, in which the powers are being exercised on the effective date of this Act; if the city does not agree to continued borough exercise of the powers within the city, the city shall exercise the powers within the city.

Sec. 29.48.037. EXTRATERRITORIAL JURISDICTION. (a) A municipality may provide parks, roads, trails, playgrounds, cemeteries and airports outside its boundaries, subject to AS 29.33.010, and may regulate their use and operation. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt ordinances to protect its water supply and watershed and may enforce them outside its boundaries. Before this power may be exercised within the boundaries of another municipality, the approval of that municipality must be given by ordinance. This section applies to general law and home rule municipalities.

Sec. 29.48.040. MUNICIPALLY-OWNED UTILITIES. A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits. This section applies to home rule and general law municipalities.

Sec. 29.48.050. FRANCHISES AND PERMITS. (a) The assembly acting

for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance.

(b) No franchise is valid until it has been submitted to the qualified voters of the city or borough area outside cities in which it applies, and at least 55 per cent of the votes cast are in favor of the franchise. At least 30 days notice of a franchise referendum election shall be given in the same manner as is provided for notice of regular municipal elections, and the notice shall specify the purpose of the election. The ordinance granting a franchise shall provide for its submission for ratification to the qualified voters of the city or borough area outside cities at either a regular or special election, and the result of the election shall be canvassed publicly by the council or assembly and spread upon the records of the minutes and the result declared and certified in the same manner as in a regular election.

(c) Public utilities regulated under AS 42.05 have the right to use the streets and other public places, upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the assembly or council requires. A dispute as to whether fees, terms, conditions, or exceptions are reasonable shall be decided by the Alaska Public Utilities Commission.

Sec. 29.48.060. PUBLIC UTILITIES RATES. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to

the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital.

Sec. 29.48.070. HEARING FOR REGULATION OF UTILITIES RATES. If the assembly or council considers it advisable to regulate, change, or fix the rates to be charged by a public service corporation, association or individual not regulated under AS 42.05, it shall order a hearing to be held before the governing body at a time and place specified. Notice of the hearing shall be given by at least one publication in a newspaper of general circulation distributed within the municipality or, if no newspaper of general circulation is distributed within the municipality, notice shall be given by posting a notice in three public places within the city or borough area outside cities receiving the utilities services and by serving written notice upon the corporations, associations and individuals whose rates are to be regulated, fixed, or changed in the same manner that summonses are served. The notices shall be published or posted and served at least 15 days before the hearing.

Sec. 29.48.080. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY. At a hearing held under sec. 70 of this chapter, all public service corporations, associations, or individuals affected by or interested in the matters to be heard may be present and may be represented by counsel. The municipality and all interested parties may produce witnesses and examine them and introduce evidence to prove or disprove the facts in issue or matters to be established or inquired into at the hearing. All parties may compel the attendance of witnesses, and subpoenas

requiring attendance shall be issued by the municipal clerk under his hand and the seal of the municipality. Subpoenas duces tecum requiring the production of books and papers shall be issued in like manner upon request. If a person fails to obey a subpoena, the party at whose request the subpoena issued may petition the superior court for an order compelling the attendance of the disobedient witness or the production of the books or papers referred to in a subpoena duces tecum. The superior court shall order the witness to appear and testify or compel the production of the books or papers. A violation of the order of the court is a contempt of court. If a witness appears and refuses to testify concerning a matter material to the facts inquired about at the hearing and to establish or determine which the hearing was had, an application may be made to the superior court to compel the witness to testify and answer questions put to him concerning the matters inquired about, and the court shall make an order compelling the witness to testify. Violation of the order is contempt of court.

Sec. 29.48.090. FURTHER PROCEEDINGS. A hearing under sec. 70 of this chapter shall begin at the time stated in the notice but may be continued from time to time. At least a quorum of the assembly or council shall be present at the hearing. At the conclusion of the hearing the parties interested may make such arguments before the assembly or council, either in person or by attorney as they consider proper, touching the matters at issue, and thereafter the assembly or council shall proceed to regulate and fix the rates by ordinance. The date upon which the rates fixed or regulated take effect shall be stated in the ordinance and shall be at least 10 days after passage and approval of the ordinance.

Sec. 29.48.100. APPLICATION. (a) In the case of conflict between the provisions of secs. 50 - 70 of this chapter and the provisions of

AS 42.05 as to the regulation of rates of a utility, the provisions of AS 42.05 shall prevail.

(b) Secs. 50 - 100 of this chapter apply to home rule and general law municipalities.

ARTICLE 3. MUNICIPAL ENACTMENTS.

Sec. 29.48.130. ACTS REQUIRED TO BE BY ORDINANCE. (a) In addition to other actions which this title requires to be by ordinance, the assembly or council of a municipality shall use ordinances to

(1) establish, alter or abolish municipal departments;

(2) fix the compensation of members of the assembly or council;

(3) provide for a fine or other penalty for establishing rules or regulations for violation of which a fine or other penalty is imposed;

(4) provide for the levying of taxes;

(5) make appropriations and supplemental appropriations or transfer appropriations;

(6) grant, renew, or extend a franchise;

(7) regulate the rate charged by a public utility;

(8) adopt, modify or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map;

(9) approve the transfer of a power to a borough from a city;

(10) designate the borough seat.

(b) This section grants no authority but requires the assembly or council to use ordinances in exercising certain of its powers.

Sec. 29.48.140. FORM OF ORDINANCES. Ordinances are introduced in writing in the form required by the assembly or council.

Sec. 29.48.150. ORDINANCE PROCEDURE. (a) The following procedure governs the enactment of all ordinances except emergency ordinances. An ordinance may be introduced by a member or committee of the assembly or council or by the municipal executive or chief administrator. An ordinance shall be set for hearing by the affirmative vote of a majority of the votes authorized on the question. A summary of the ordinance and its amendments is published together with a notice of time and place for public hearing. The hearing follows publication by at least five days. Copies of the ordinance must be available to all persons present or the ordinance must be read in full. The assembly or council shall hear all interested persons wishing to be heard. After the hearing, the assembly or council shall consider the ordinance and may adopt it with or without amendment. The assembly or council shall print and make available copies of adopted ordinances.

(b) Ordinances take effect upon adoption or at a later date specified in the ordinance.

Sec. 29.48.160. EMERGENCY ORDINANCES. (a) To meet a public emergency the assembly or council may adopt ordinances effective on adoption. Every emergency ordinance must contain a finding by the assembly or council that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The assembly must print and make available copies of adopted emergency ordinances.

(b) An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.

(c) Emergency ordinances are effective for 60 days.

Sec. 29.48.170. CODES OF REGULATIONS. The assembly or council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. For a period of 15 days before adoption at least five copies of the code must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The assembly or council shall provide for the adopted code to be sold to the public.

Sec. 29.48.180. CODIFICATION. (a) Each ordinance and resolution after adoption shall be codified.

(b) Within three years after incorporation of the municipality, the municipal executive, with the advice and assistance of a legal advisor, shall have prepared a general codification of all municipal ordinances of general applicability having the force and effect of law. The municipal code shall be revised and printed at least every five years, unless the code is kept current by regular supplements.

(c) In (a) of this section, codified means

(1) the ordinance has been given a serial number or other permanent identifying number and, bearing a notation of the date of adoption and the designation of the adopting authority, it has been entered by the municipal clerk in a properly indexed book maintained for the purposes of organizing and recording the ordinances; or

(2) the ordinance is a provision included, or to be included, in a code of ordinances or other complete system of positive law promulgated by the council and kept current by the city at reasonable intervals.

(d) This section applies to general law and home rule municipalities.

Sec. 29.48.190. BUDGET AND CAPITAL PROGRAM. (a) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

(b) A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance adopted by a majority of the votes authorized on the question.

(c) The assembly or council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

(d) Nothing in this section is intended to prevent the authorizing of payment or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

Sec. 29.48.200. PENALTIES. For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of $500 or imprisonment for 30 days, or both. However, the punishment authorized under this subsection may be imposed only if an ordinance is codified and copies of the ordinance are made available for distribution to the public.

Sec. 29.48.210. EXPENDITURE OF BOROUGH REVENUES. Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative

costs and on areawide functions only. Revenues levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only.

Sec. 29.48.220. POST AUDIT. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities.

ARTICLE 4. MISCELLANEOUS PROVISIONS.

Sec. 29.48.250. CENTRALIZED PURCHASING. The assembly or council may provide for centralized purchasing, storage and distribution of supplies, material and equipment for the municipality and its departments.

Sec. 29.48.260. MUNICIPAL PROPERTIES. (a) A municipality may acquire and hold real and personal property or interest in property, and may sell, lease or otherwise dispose of property no longer required for municipal purposes.

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease,donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly or council it is advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal

procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor; (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that time in at least three public places in the municipality; (3) public auction or opening of sealed bids, if any; and (4) other terms and conditions fixed by the assembly or council. However, no ordinance for the sale, lease, or disposition of real property or interest in real property valued at $25,000 or more is valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. Thirty days notice shall be given of the election and during that period the assembly or council shall have published at least once a week in a newspaper of general circulation distributed within the municipality a notice stating the time of the election and the place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, if any, and stating the title and date of passage of the ordinance. Notice shall also be given by posting a copy of it in at least three public places in the municipality at least 30 days before the election. If no newspaper of general circulation is distributed within the municipality, the notice given by posting is sufficient for the purposes of this section.

(d) The assembly or council may by ordinance establish a formal procedure for acquisition from the state of land or rights in land and the disposal of the land or rights in land, in which event the provisions of (c) of this section do not apply.

(e) A municipality, in order to make sites available for beneficial new industries, may acquire and hold real property, either inside or outside the corporate limits, and may sell, lease or dispose of it to persons who agree to operate a beneficial new industry upon the terms and conditions the assembly or council considers advantageous to the municipality.

Sec. 29.48.270. EMERGENCY DISASTER POWERS. (a) A municipality which is wholly or partially within an area which is declared by the President to be a disaster area may participate in and provide for housing and urban renewal and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough is limited to the area outside a city in the borough.

(b) A borough may exercise the powers for a housing or urban renewal and redevelopment project transferred to it by a city located in the borough as provided by AS 29.33.260.

(c) AS 29.38.020 - 29.38.050 are not applicable to the housing and urban renewal and redevelopment powers granted by this section.

(d) Powers granted by this section must be initiated within a period of not more than five years from the date of declaration of a natural disaster by the President, but these powers may be extended for an additional period of not more than three years.

ARTICLE 5. CONSTRUCTION OF POWERS.

Sec. 29.48.310. GENERAL CONSTRUCTION. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

Sec. 29.48.320. EXTENT OF POWERS. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.48.330. ENUMERATION OF POWERS. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation or exclusion upon the exercise of the power or function.

CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION.

ARTICLE 1. BOROUGH PROPERTY TAX.

Sec. 29.53.010. GENERAL PROPERTY TAX. Home rule and general law boroughs may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A property tax if levied must be assessed, levied and collected on real and personal property as provided in this chapter.

Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests;

(2) household furniture of the head of a family or a householder not exceeding $500 in value;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section.

(b) "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a non-profit hospital;

(3) lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

(4) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure do not exempt the property from taxes levied and collected by municipalities.

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000.

No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) - (i) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under (e) - (i) of this section only the amount of revenue lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state.

(i) In (e) - (i) of this section the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes.

Sec. 29.53.025. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed $5 a year for a boat or vessel of less than five net tons and shall not exceed $15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over $500 in value and the effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property does not exceed the actual cost to the owner of the use by the renter; and

(C) historic sites, buildings and monuments.

(c) The provisions of (a) of this section notwithstanding,

(1) a home rule or first or second class borough may, by ordinance adopted without weighted voting, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption

period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on the effective date of this Act and not later withdrawn, are not affected by this Act.

Sec. 29.53.030. MINING CLAIMS. The assessed value of an unimproved unpatented mining claim which is not producing, and a nonproducing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is fixed at $200 for each 20 acres or fraction of 20 acres. If the surface ground of a claim has a separate and independent value for nonmining uses, the real and personal property is assessed at its full and true value.

Sec. 29.53.035. FARM OR AGRICULTURAL LANDS. (a) Farm use lands shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other non-farm purpose. The assessor shall maintain separate assessment records evaluating the farm use land for other than farm use purposes, where applicable. Should the farm use land be sold, leased, or otherwise

disposed of, for other than farm use purposes, the owner shall be liable to pay the additional tax for the preceding two years, and the applicable portion of the current tax year, as though the land had not been assessed for farm use purposes.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before February 1 of each year in which the assessment is desired. The application shall be made upon forms prepared and supplied by the assessor and shall include information which may reasonably be required to determine the entitlement of the applicant.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use or any combination thereof and includes the preparation of the products raised on the farm use land and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use. To be farm use land, the owner must be actively engaged in farming the land, and derive at least one-fourth of his yearly gross income from the farm use land. The provisions of this section shall not apply to land which the owner has granted, and has outstanding, a lease or option to buy the surface rights.

Sec. 29.53.040. MOBILE HOMES. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office or commercial purposes and attached to the land or connected to water, gas, electric or sewage facilities are classed as real property for tax purposes except where expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes which are unoccupied and held

for sale by persons engaged in the business of selling mobile homes.

Sec. 29.53.050. TAX LIMITATION. No municipality may levy and tax for any purpose in excess of three per cent of the assessed valuation of property within the municipality in any one year.

Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The limitation provided for in sec. 50 of this chapter does not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

Sec. 29.53.060. FULL AND TRUE VALUE. (a) The assessor of a municipality shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and sec. 30, 35 and 160 of this chapter. The full and true value is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the borough assembly.

Sec. 29.53.070. RETURNS. (a) The assembly may require every person having ownership or control of or an interest in property to submit a return in the form prescribed by the assessor, based on property values existing on January 1, except as otherwise provided in this chapter.

(b) The assessor may, by written notice, require a person to provide additional information within 30 days.

Sec. 29.53.080. INDEPENDENT INVESTIGATION. (a) The assessor is not bound to accept a return as correct. He may make an independent investigation of property returned or of taxable property upon which no return has been filed. In either case, the assessor may make his own valuation of the taxable property, which is prima facie evidence.

(b) For investigation, the assessor or his agent may enter any premise during reasonable hours and may examine property on the premises. He may examine all property records involved. A person shall, upon request, furnish to the assessor or his agent every facility and assistance for the purposes of the investigation. If refused entry, the assessor may seek a court order to compel entry.

(c) An assessor may examine a person on oath. Upon request, the person shall present himself for examination by the assessor.

Sec. 29.53.090. STATEMENT. A person who fails to file a statement required by ordinance or who knowingly makes a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation, is guilty of a misdemeanor. Upon conviction, he is punishable by a fine of not more than $500, or by imprisonment for not more than 30 days, or by both, together with costs of prosecution.

Sec. 29.53.095. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly.

Sec. 29.53.100. ASSESSMENT ROLL. (a) The assessor shall prepare an annual assessment roll. The roll contains

(1) a description of all taxable property;

(2) the assessed value of all taxable property;

(3) the names and addresses of persons with property subject to assessment and taxation.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the owner of record as shown in the records of the district recorder, who shall at least monthly provide the assessor a copy of each recorded change of ownership and the address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal owner of record. If the property owner is unknown, the property may be assessed to "unknown owner". No assessment is invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

Sec. 29.53.110. ASSESSMENT NOTICE. (a) The assessor shall give every person named in the assessment roll a notice of assessment, showing the assessed value of his property. On each notice is printed a brief summary of the dates when taxes are payable, delinquent and subject to penalty and interest, and the dates when the board of equalization will sit.

(b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing.

Sec. 29.53.120. CORRECTIONS. (a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of his property. The assessor may correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board.

Sec. 29.53.130. APPEAL. (a) A person whose name appears on the assessment roll or his agent or assigns may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(b) The appellant shall, within 30 days from the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form which the board may require. Otherwise, the right of appeal ceases unless the board finds that the taxpayer was unable to comply.

(c) The assessor shall notify appellants by mail of the time and place of their hearing.

(d) The assessor shall prepare for use by the board a summary of assessment data relating to each assessment which is appealed.

(e) A city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city.

Sec. 29.53.135. BOARD OF EQUALIZATION. The assembly sits as a board of equalization for the purpose of hearing any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of at least that number of members of the assembly over and above the number required for a quorum to transact business. The board

is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings as may be adopted by ordinance, including but not limited to quorum and voting requirements. The assembly shall by ordinance adopt rules for the membership and conduct of the board.

Sec. 29.53.140. HEARING. (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

(c) The only grounds for adjustment is proof of unequal, excessive or improper valuation based on facts which are stated in a valid written appeal timely filed or proved at the hearing.

(d) The board shall certify its actions to the assessor within seven days.

(e) The assessor shall enter the changes and certify the final assessment roll by June 1.

(f) An appellant may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial.

Sec. 29.53.150. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

Sec. 29.53.160. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATURAL DISASTER. (a) The assembly may provide for reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster.

(b) A reassessment may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that his losses exceed $1,000. A reduction of taxes may be made only on losses in excess of $1,000 for the remainder of the year following the disaster. Upon reassessment,

the borough shall recompute this tax and refund taxes which have already been paid.

(c) The borough shall make notice of assessment or reassessment and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal is filed with the board of equalization within 10 days after notice of assessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply

(d) In enacting an ordinance or resolution authorized by this section, the assembly may, consistent with this section, prescribe procedures, restrictions and conditions of assessing or reassessing property and of remitting, refunding or forgiving taxes.

(e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g, or other federal law.

Sec. 29.53.170. TAX LEVY AND RATE. (a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of general ordinances, but the rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by resolution.

(b) The assembly shall annually determine the rate of levy before June 15. By July 1 the tax collector shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

Sec. 29.53.180. RATES OF PENALTY AND INTEREST. (a) If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty not to exceed 10 per cent may be added to all delinquent taxes, and interest at the rate of eight per cent a year

shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments and the first half is not paid when due, the entire tax becomes delinquent and penalty and interest accrue as follows:

(1) if the first half is paid when due, the second half is payable on the due date fixed by the assembly for the second half and if not paid is delinquent after that date;

(2) a penalty not to exceed eight per cent shall be added to all taxes delinquent until the due date fixed for payment of the second half, and interest at the rate of eight per cent a year shall be charged on the whole of the unpaid taxes, not including penalty, from due date until paid in full;

(3) after the due date for the payment of the second half, a total penalty of not more than 10 per cent may be added to all delinquent taxes, and interest at the rate of eight per cent a year shall accrue upon all unpaid taxes, not including penalties, from due date until date paid in full.

(b) If the assembly impose a penalty for the nonpayment of property taxes when due, or the late return of personal property assessment forms, the rate of penalty or combined rates of penalty may not exceed 10 per cent of the tax due on the property concerned.

(c) If the assembly charges interest on property taxes not paid when due, the rate of interest may not exceed eight per cent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

ARTICLE 2. ENFORCEMENT OF TAX LIENS.

Sec. 29.53.200. VALIDITY. Certified assessment and tax rolls are valid and binding on all persons, notwithstanding any defect, error,

omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

Sec. 29.53.210. TAX LIABILITY. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the borough.

(b) Real property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

Sec. 29.53.220. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made by virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale.

Sec. 29.53.230. REAL PROPERTY TAX COLLECTION. (a) The borough shall enforce delinquent real property tax liens by annual foreclosure, unless otherwise provided by ordinance.

(b) If the tax on property described in sec. 40 of this chapter or on a leasehold interest in tax exempt property is not paid when due, a borough may enforce the tax by a personal action against the

delinquent taxpayer brought in the district or superior court, in addition to other remedies available to the borough to enforce the lien.

Sec. 29.53.240. FORECLOSURE LIST. (a) The borough shall

(1) annually present a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent taxes in the superior court for judgment;

(2) publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed within the borough or, if there is no newspaper of general circulation distributed within the borough, post the list at three public places for at least 30 days;

(3) within 10 days after the first publication or posting, mail to the last known owner of each property as his name and address appear on the list a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

(b) The list shall be arranged in alphabetical order as to the last name and shall include

(1) the last known owner;

(2) the property description as stated on the assessment roll;

(3) years and amounts of delinquency;

(4) penalty and interest due;

(5) a statement that the list is available for public inspection at the clerk's office;

(6) a statement that the list has been presented to the superior court with a petition for judgment and decree.

(c) Completion of the requirements of (a) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list.

Sec. 29.53.250. CLEARING DELINQUENCIES. During the publication or posting of the foreclosure list and up to the time of transfer to the borough a person may pay the taxes, together with the penalty, interest and costs. The collector shall note payment on the foreclosure list.

Sec. 29.53.260. LIST TO LIENHOLDER. A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list which includes such real property.

Sec. 29.53.270. GENERAL FORECLOSURE. The borough shall bring one general foreclosure proceeding in rem against the properties included in the list. If the owner is unknown, the property is proceeded against as belonging to "unknown owner". Tax foreclosure proceedings have priority over all other civil proceedings except board of adjustment appeals as provided in AS 29.33.130(e).

Sec. 29.53.280. ANSWER AND OBJECTION. A person having an interest in a tract on the foreclosure list may file an answer within 30 days of the date of last publication, specifying his objection. The court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid.

Sec. 29.53.290. JUDGMENT. The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against and a lien on each parcel.

Sec. 29.53.300. TRANSFER AND APPEAL. (a) Foreclosed properties are transferred to the borough for the lien amount. When answers are filed the court may enter judgment against and order the transfer to

the borough of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

(b) The court clerk shall deliver a certified copy of the judgment and decree to the borough clerk. The certified judgment and decree constitutes a transfer to the borough.

(c) The judgment and decree stops objections to it which could have been presented before judgment and decree.

(d) Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in the manner provided for appeals in civil actions.

Sec. 29.53.310. REDEMPTION PERIOD. (a) Properties transferred to the borough are held by the borough for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs. Property redeemed is subject to all taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

(b) A person holding a mortgage or other lien of record covering a part only of a parcel of real property included in the judgment and decree of foreclosure may redeem that part by paying the proportionate amount applicable under the judgment and decree.

Sec. 29.53.320. EFFECT. Receipt of redemption money by the clerk releases all claims of the borough to the property. The clerk shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk shall file the certificate with

the recorder and collect the recording fee from the person redeeming at the time of redemption. The court clerk shall file the certificate as part of the judgment roll.

Sec. 29.53.330. ADDITIONAL LIENS. If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien.

Sec. 29.53.340. POSSESSION DURING REDEMPTION PERIOD. Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under his permission or control, the borough may declare an immediate forfeiture of the right to possession.

Sec. 29.53.350. EXPIRATION. Not earlier than 30 days before the expiration of the redemption period the clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against whom a judgment of forec osure has been taken. The notice shall be mailed within five days of the first publication. The mailing

shall be sufficient if mailed to the property owner at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

Sec. 29.53.360. DEED TO BOROUGH OR CITY. (a) Unredeemed properties in the area of the borough outside cities are deeded to the borough by the clerk of the court. Unredeemed properties within a city are deeded to the city subject to the payment by the city of unpaid borough taxes and costs of foreclosure levied against the property before foreclosure. The deeds shall be recorded in the recording district in which the property is located.

(b) Conveyance gives the borough or the city clear title except for prior recorded liens of the United States and the state.

(c) If unredeemed property lies within a city and if the city has no immediate public use for the property but the borough does have an immediate public use, the city shall deed the property to the borough. If unredeemed property lies within the borough outside a city and if the borough does not have an immediate public use for the property but the city does have an immediate public use, the borough shall deed the property to the city.

(d) No deed is invalid for irregularities, omissions or defects, unless the former owner has been misled to his injury. After two years from the date of the deed and its validity is conclusively presumed and any claim of the former owner is forever barred.

Sec. 29.53.370. SALE OF FORECLOSED PROPERTIES. Tax-foreclosed properties conveyed to a borough or city by tax foreclosure may be sold. Before the sale of any property held for a public purpose, the assembly or council by ordinance shall determine that the public need no longer exists.

Sec. 29.53.375. REPURCHASE BY RECORD OWNER. (a) The record owner

at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property, for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight per cent a year from the date of entry of the judgment of foreclosure to the date of repurchase, together with delinquent taxes assessed and levied as though it had continued in private ownership.

(b) After termination of the right of redemption there is no right to repurchase property held for, or devoted to, a public purpose.

Sec. 29.53.380. PROCEEDS OF TAX SALE. Upon sale of foreclosed real or personal property the borough or city shall divide the proceeds less cost of collection, between the borough and the city having unpaid taxes against the property. The division is in proportion to the respective municipal taxes against the property at the time of foreclosure.

Sec. 29.53.385. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a city or borough holds or takes title to tax-foreclosed property for a public purpose, the city or borough shall satisfy unpaid taxes and assessments against the property held by other municipalities, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed valuation of the property, the city or borough shall pay the other municipalities the assessed valuation, which shall be divided between the other municipalities in proportion to their respective taxes and assessments against the property at the time of foreclosure.

Sec. 29.53.390. REFUND OF TAXES. (a) If a taxpayer pays taxes under protest, he may bring suit in the superior court against the

borough for recovery of the taxes. If judgment for recovery is given against the borough, the borough shall refund the amount of the taxes to the taxpayer with interest at eight per cent from the date of payment plus costs.

(b) If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the borough, on audit of the account in question, is satisfied that this is the case, the borough shall refund the excess to the taxpayer with interest at eight per cent from the date of payment. A claim for refund filed after one year of the due date of the tax is forever barred.

ARTICLE 3. CITY PROPERTY TAX.

Sec. 29.53.400. POWER OF LEVY. Home rule and first class cities within boroughs may levy a general property tax. A property tax, if levied, is subject to secs. 50 and 310 - 350 of this chapter. The council shall by June 15 of each year present to the borough assembly a statement of the city's rate of levy, unless a different date is agreed upon by the borough and city.

Sec. 29.53.405. DIFFERENTIAL TAX ZONES. Cities may by ordinance establish, alter and abolish differential tax zones to provide and levy property taxes for services not provided generally within the city or a different level of service than that provided generally within the city.

Sec. 29.53.410. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS CITIES. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to

levy ad valorem or other taxes without limit to meet debt payments.

ARTICLE 4. BOROUGH SALES AND USE TAXES.

Sec. 29.53.415. SALES AND USE TAX. (a) A borough may levy and collect a sales tax not exceeding three per cent on sales or rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed eight per cent a year upon the delinquent taxes and shall be charged from the [illegible]ate until paid in full.

Sec. 29.53.420. REFERENDUM, ADOPTION AND MODIFICATION. (a) The assembly shall hold a referendum vote on the question of levy of sales taxes. Borough sales tax propositions may be presented only once in any 12-month period.

(b) If the proposition receives a majority of the votes cast, the assembly may enact the sales tax as a levy upon buyers, sellers, or both. The sales tax is collected at the time of sale or at the

time of payment in credit transactions and transmitted to the borough.

ARTICLE 5. CITY SALES AND USE TAXES.

Sec. 29.53.440. POWER OF LEVY. Cities within a borough which levies and collects sales or use taxes for areawide borough functions may levy sales or use taxes upon all sources taxed by the borough in the manner provided for boroughs.

Sec. 29.53.450. POWER OF LEVY AND COLLECTION. Cities within a borough which does not levy and collect sales or use taxes for areawide borough functions may levy and collect sales or use taxes in the manner provided for boroughs.

Sec. 29.53.460. COMBINING SALES TAX WITH INCORPORATION. A petition for second class city incorporation may request that a sales tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the sales tax proposition. If so, the incorporation proposition fails if the sales tax fails.

CHAPTER 58. MUNICIPAL DEBT.

ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants

finally committed for these projects. The notes mature no later than the end of the next fiscal year. The notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be payable from revenues, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them.

Sec. 29.58.060. SALE OF NOTES. The municipality may sell revenue anticipation notes in the manner and at the price it determines, at either public or private sale.

ARTICLE 2. BOND ANTICIPATION NOTES.

Sec. 29.58.070. BOND ANTICIPATION BORROWING. A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

(1) the general obligation bonds to be sold have been authorized by the assembly or council and ratified by a majority vote at a regular or special election;

(2) the revenue bonds to be sold have been authorized by ordinance.

Sec. 29.58.080. ISSUANCE OF NOTES. The assembly or council shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time, from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes.

Sec. 29.58.090. ISSUANCE OF NEW NOTES. If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the assembly or council shall issue new notes in order to meet payment of the notes then maturing or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes shall bear a maturity date not to exceed one year from the date of issue. Notes, new notes, and renewals of notes shall not be outstanding for a total elapsed time of more than three years.

Sec. 29.58.100. REPAYMENT OF NOTES. Every note is payable from the proceeds of the sale of bonds which the notes anticipated or from the proceeds of the sale of new bond anticipation notes.

Sec. 29.58.110. SECURITY. (a) Notwithstanding any other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are secured by the full faith, credit, taxing power and resources of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) Notes issued in anticipation of the sale of revenue bonds and the interest on them are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued.

Sec. 29.58.120. LIMITATION. The total amount of notes issued

and outstanding shall at no time exceed the total amount of bonds authorized to be issued.

Sec. 29.58.130. USE OF PROCEEDS. The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes.

Sec. 29.58.140. SALE OF NOTES. Notes issued under this chapter shall be sold by the municipality in the manner and at the price it determines, at either public or private sale, but no note may be sold for less than par and accrued interest.

ARTICLE 3. GENERAL OBLIGATION BONDS.

Sec. 29.58.150. GENERAL OBLIGATION BONDS. A municipality may acquire, construct, improve and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes.

Sec. 29.58.160. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED. (a) A municipality may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority of those voting on the question at a regular or special election. Any municipal voter may vote in the bond election, except as otherwise provided by charter or law.

(b) Before a general obligation bond issue election, the assembly or council shall have published a notice of the municipality's total existing bond indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. A notice shall include

(1) the current total general obligation bonded indebtedness, including authorized but unsold bonds of the municipality;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed valuation within the municipality.

Sec. 29.58.170. FORM AND TERMS OF SALE. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Sec. 29.58.180. PAYMENT. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) General obligation bonds issued for acquiring, constructing, improving and equipping a municipally-owned utility or other revenue-generating enterprise may be additionally secured by a pledge of the revenue derived from operation. Bonds so secured are not subject to a debt limitation imposed by a borough or city home rule charter.

ARTICLE 4. REVENUE BONDS.

Sec. 29.58.200. REVENUE BONDS. A municipality may acquire, construct, improve and equip capital improvements to be operated upon a revenue-producing basis, and bonds for these purposes are payable solely from unpledged revenue of the public facilities for which the bonds are issued.

Sec. 29.58.205. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of revenue bonds unless otherwise provided by ordinance.

Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest place and manner of payment, redemption terms, registration privileges manner of execution and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Sec. 29.58.220. PAYMENT. Bonds issued under secs. 200 - 220 of this chapter or the proceedings of the assembly or council authorizing their issuance may contain the covenants which the assembly or council considers advisable concerning

(1) the rates or fees to be charged for services rendered by the public facilities, the revenue of which is pledged to the payment of the bonds;

(2) the deposit and use of the revenue of the public facilities;

(3) the issuance of additional bonds payable from revenue of the public facilities;

(4) the rights of the bondholders in case of default in the payment of the principal or interest on the bonds, including the appointment of a receiver to operate the public facilities;

(5) other covenants as the assembly determines.

ARTICLE 5. REFUNDING BONDS.

Sec. 29.58.240. AUTHORIZATION. If a municipality has outstanding general obligation or revenue bonds and the assembly or council determines that it would be financially advantageous to refund the bonds,

the assembly or council may provide by ordinance for the issuance of general obligation or revenue refunding bonds.

Sec. 29.58.250. EFFECT OF BONDS. The refunding bonds may take up and refund all or any part of outstanding bonds at or before their maturity or redemption date. The assembly or council may include various series and issues of bonds in a single issue of refunding bonds.

Sec. 29.58.260. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance of the assembly or council. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question.

Sec. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation refunding bonds are payable according to sec. 180 of this chapter. Revenue refunding bonds are payable according to sec. 220 of this chapter.

Sec. 29.58.280. SALE. General obligation or revenue refunding bonds may, in the discretion of the assembly or council, be exchanged at par for the bonds being refunded, or may be sold at public or private sale for an amount not less than par and accrued interest. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

Sec. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance. No bonds may be sold at less than par value.

Sec. 29.58.310. INTEREST RATE. No municipal bond or note may

bear an interest rate exceeding the contract usury rate of interest provided by law.

Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds.

Sec. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or note may be made subject to redemption before maturity as stated in the authorization or in the bond or note.

Sec. 29.58.340. BOROUGH INDEBTEDNESS. (a) Boroughs may incur indebtedness

(1) on an areawide basis for areawide functions; or

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be limited to the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the entire borough is pledged for the payment of the debt of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be

special assessment roll for the local improvement;

(6) published notice of each public hearing required by this section and mailing notice to each legal owner of record of real property within the special assessment district;

(7) a resolution confirming the special assessment roll for the local improvement;

(8) if protests as to the necessity of a local improvement are made by owners of property which will bear 50 per cent or more of the estimated cost of the improvement, the assembly or council shall not proceed with the improvement until the objections have been reduced to less than 50 per cent, except upon approval of not fewer than three-fourths of the assembly or council.

(b) If the assembly or council does not prescribe a procedure for special assessments as permitted by this section, the assembly or council shall comply with the special assessment procedures set out in secs. 20 - 70 of this chapter.

Sec. 29.63.020. DECISION AND NOTICE. (a) When an improvement proposal has been filed with the municipal clerk and presented to the assembly or council, the assembly or council shall find by resolution whether (1) the improvement request is necessary and should be made, and (2) the request has sufficient and proper petitioners. The findings of the assembly or council are conclusive.

(b) If the assembly or council passes a resolution approving an improvement proposal with the necessary findings, it shall develop a proposed improvement plan including cost estimate and the percentage of the improvement plan cost to be assessed against the property benefited. This plan is to be filed with the municipal clerk.

(c) The assembly or council shall set a time for public hearing on the improvement plan. The assembly or council shall publish a

incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas.

CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS.

ARTICLE 1. SPECIAL ASSESSMENTS.

Sec. 29.63.010. ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of constructing or improving capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under sec. 15(8) of this chapter. If a governmental unit other than the state benefited by an assessment refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

(1) petition to the assembly or council of the owners of one-half in value of the property to be benefited or

(2) the assembly or council.

Sec. 29.63.015. PROCEDURE. (a) The assembly or council may prescribe by ordinance the complete special assessment procedure for local improvements, including and subect to the following:

(1) the procedure for filing petitions;

(2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;

(3) a public hearing on the necessity for the local improvement;

(4) a resolution of the assembly or council determining to proceed or not to proceed with the proposed local improvement;

(5) a public hearing by the assembly or council on the

notice at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

Sec. 29.63.025. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment may be made against "unknown owner".

Sec. 29.63.030. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the assembly or council. The assembly or council may by resolution approve the plan and proceed with the improvement if the owners of one-half in value of the property to be benefited do not object in writing.

(b) If objections are made by the owners of property bearing one-half of the estimated cost of the improvement, the assembly or council may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 per cent. A revised plan shall be approved and adopted as an original plan.

Sec. 29.63.040. ASSESSMENT ROLL. (a) At any time after project approval, the assembly or council shall assess the authorized percentage of the cost against tracts in proportion to benefit received. Assessments may not exceed actual costs.

(b) The special assessment roll contains property descriptions, names of owners of record and assessment amounts.

(c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than

15 days before the hearing.

Sec. 29.63.050. HEARING AND SETTLEMENT. After the public hearing the assembly or council shall correct errors and any inequalities in the roll. When the roll is corrected, the clerk shall so certify.

Sec. 29.63.060. PAYMENT. (a) The assembly or council shall fix times of payment, rate of interest on unpaid installments, and delinquency of assessments. Payment may not be required sooner than 60 days after assessment. Payment may be in one sum or by installments, but a sum or installment may not exceed 25 per cent of the assessed value of the property affected. Penalty and interest are the same as for real property taxes.

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, the time of delinquency, and penalties.

(c) Within five days after the statements are mailed, the clerk shall publish notice that the statements have been mailed.

(d) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.53.200 - 29.53.390 for enforcement of property tax liens.

Sec. 29.63.070. REASSESSMENT. (a) The assembly or council shall within one year correct any deficiency in a special assessment found by a court

(b) Notice and hearing must conform to the initial assessment procedures.

(c) Payments on the initial assessment are credited to the property upon reassessment.

(d) The reassessment becomes a charge upon the property

notwithstanding failure to comply with any provision of the assessment procedure.

Sec. 29.63.080. OBJECTION AND APPEAL. (a) The regularity or validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

(b) The decision of the assembly or council upon an objection may be appealed to the superior court within 30 days of the date of confirmation of the assessment roll.

(c) If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects.

Sec. 29.63.085. SPECIAL ASSESSMENT BONDS. The assembly or council may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefited may be pledged by the assembly or council to secure a payment.

(b) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

(c) Before the assembly or council may issue special assessment

bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. Interest on the guarantee funds shall be a cost of the improvement district.

ARTICLE 2. SERVICE AREAS.

Sec. 29.63.090. SERVICE AREAS. (a) Service areas to provide special services within a borough may be established, operated, altered or abolished by the assembly by ordinance. Special services include services not provided on an areawide basis within the borough or the borough area outside cities or a higher or different level of service than that provided on an areawide basis or in the borough area outside cities. In a first class borough the assembly may exercise within a service area any power granted a first class city by general law; in a second class borough an exercise of the powers must be approved by a majority of the qualified voters residing within the service area and voting on the question at a regular or special election.

(b) The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services.

(c) The assembly may provide for appointed or elected boards to supervise the furnishing of special services in service areas.

(d) A new service area may not be established if, consistent with the purposes of art. X of the constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

(e) The assembly may exercise or delegate to a service area any

powers which may be exercised by a first class borough in the area outside cities. In a second class borough, each exercised or delegated power must be approved by a majority vote at a regular or special election held within the service area. The rate of taxation and the issuance of bonds are subject to assembly approval.

CHAPTER 68. ALTERATION OF BOUNDARIES.

ARTICLE 1. ANNEXATION AND EXCLUSION.

Sec. 29.68.010. LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first 10 days of any regular session. The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(b) In addition to the regulations governing annexation by local action adopted under AS 44.19.260, the Local Boundary Commission shall, within 90 days of the effective date of this Act, establish procedures for annexation and exclusion of territory by cities and boroughs by local action. The procedures established under this subsection shall include

(1) a provision requiring that a proposed annexation and exclusion must be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

(2) provisions that municipally-owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) provisions that an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local actior, without regard to priority in time.

ARTICLE 2. MERGER AND CONSOLIDATION.

Sec. 29.68.030. METHODS OF MERGER OR CONSOLIDATION. Two methods may be used to initiate merger or consolidation of home rule and general law municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission, or

(2) the local option method specified in secs. 40 - 110 of this chapter.

Sec. 29.68.040. PETITION. (a) Residents of two or more municipalities may file a merger or consolidation petition with the Local Affairs Agency. The petition must be signed by a number of municipal voters of each municipality equal to at least 25 per cent of the number of votes cast in its last regular election.

(b) The petition includes

(1) the name and class of each municipality;

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

(3) the proposed composition and apportionment of the assembly or council;

(4) maps, documents, and other information which show that the proposed municipality meets the standards for municipal incorporation.

Sec. 29.68.050. REVIEW. The Local Affairs Agency shall review a petition for content and signatures and shall return a deficient petition for correction or completion.

Sec. 29.68.060. INVESTIGATION. If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal.

Sec. 29.68.070. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendations regarding the merger or consolidation.

(b) The Local Boundary Commission shall hold at least one public hearing in each of the municipalities included in the merger or consolidation petition, unless officials of the municipalities agree to a single hearing.

Sec. 29.68.080. DECISION. If the Local Boundary Commission determines that the proposed municipality fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed municipality meets these standards, it shall accept the petition. If the commission determines that the proposed boundaries or the composition and apportionment of the assembly or council can be altered to meet the standards, it may change the proposal and accept the petition. The decision may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.68.090. ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a merger or consolidation petition. Within 30 days after notification, the lieutenant governor shall order an election within the area to be included in the new municipality to determine whether the voters desire merger or consolidation. The election is held not less than 30 nor more than 90 days after the election order.

(b) A voter who is a resident of the area to be included within the proposed municipality may vote.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results.

If merger or consolidation is approved, he shall, within 10 days, set a date for election of officers of the new municipality under AS 29.18.-120. The election date is not less than 60 nor more than 90 days after the election order. This date is the effective date for the merger or consolidation.

Sec. 29.68.100. ASSETS AND LIABILITIES. (a) When two or more municipalities merge, one municipality succeeds to the rights, powers, duties, assets and liabilities of the others.

(b) When two or more municipalities consolidate, the newly-incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

Sec. 29.68.110. ORDINANCES. The ordinances, resolutions, rules, regulations, procedures and orders of the former municipalities remain in force within their respective territories until superseded by the action of the successor municipality.

ARTICLE 3. UNIFICATION OF LOCAL GOVERNMENTS.

Sec. 29.68.240. UNIFICATION OF LOCAL GOVERNMENTS AUTHORIZED. An organized borough and all cities within the borough may unite to form a single unit of home rule local government by complying with this chapter.

Sec. 29.68.250. UNIFICATION TO BE PROPOSED BY PETITION. (a) Formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition. An assembly resolution for the purpose may be adopted not more often than once every 12 months.

(b) The borough assembly, a city council, or a person living within the area of proposed unification may initiate the petition.

Sec. 29.68.260. PETITION REQUIREMENTS. (a) The petition shall read: "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION

CHARTER

We, the undersigned, qualified voters of the _ _ _ _ _ _ _ _ _ Borough do hereby petition that the following proposition be placed before the voters as provided by law:

'Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the _ _ _ _ _ _ _ Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

Yes [ ] No [ ]'

Signature	Address	Inside First Class or Home Rule City	Outside First Class or Home Rule City"

(b) The petition shall be signed by at least

(1) that number of qualified voters of the borough living outside all first class and home rule cities in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election; and

(2) that number of qualified voters residing in each first class and home rule city located in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election in each city.

Sec. 29.68.270. REVIEW OF PETITION. Upon receipt of a petition, the borough assembly shall review the petition within 15 days after its receipt to determine whether it complies with sec. 260 of this chapter. If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied.

Sec. 29.68.280. CALL FOR CHARTER COMMISSION NOMINATIONS. Once it is determined by the borough assembly that a petition meets the requirements of sec. 260 of this chapter, or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter, the assembly shall issue a call for the nomination of charter commission candidates, specifying the filing deadline and outlining the procedure described for making nominations under sec. 290 of this chapter.

Sec. 29.68.290. NOMINATION OF CHARTER COMMISSION CANDIDATES. (a) Charter commission candidates shall be nominated by petition signed by at least 50 qualified voters of the area from which the candidate seeks election or by a number of qualified voters from that area equal to at least 10 per cent of the number of votes cast from that area in the last regular borough election, whichever is less.

(b) Nomination petitions shall be filed with the borough clerk on or before the date fixed by the borough assembly, which date shall not be less than 30 days after notice of the call for nominations has been given through the borough.

Sec. 29.68.300. QUALIFICATIONS OF CHARTER COMMISSION CANDIDATES. A person is eligible to be nominated as a candidate for the charter commission if he has been a qualified voter of the area from which he seeks election for at least one year immediately preceding the date his nomination petition is filed with the borough clerk.

Sec. 29.68.310. COMPOSITION OF CHARTER COMMISSION. The charter commission members shall be qualified voters and shall consist of 11 members, three of whom shall be residents elected at large from the area of the borough and eight of whom shall be (1) residents of and elected from the area outside cities in the borough or (2) residents of and elected from a city or cities in the borough. The number

representing each of these areas shall be proportionate to the respective populations as determined by the Local Affairs Agency.

Sec. 29.68.320. ELECTION. (a) After receipt of a valid petition or adoption of an assembly resolution for the purpose, the borough assembly shall submit to the voters the question of whether that borough and all cities within it shall unite to form a single unit of home rule government. The vote shall be held at the next regular borough election scheduled at least 90 days after receipt of the valid petition or adoption of the resolution.

(b) The ballot on the question of unification shall be worded exactly as in sec. 260(a) of this chapter.

(c) The election of charter commission members shall take place at the same time as the election on the question of unification.

(d) All costs incurred in conducting an election under this chapter shall be paid by the borough.

Sec. 29.68.330. REQUIREMENTS FOR APPROVAL OF UNIFICATION AND ELECTION OF CHARTER COMMISSION. (a) The votes on unification shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for unification to be approved, it is necessary that a majority of the votes in each classification favor unification.

(b) If unification is approved, those charter commission candidates who received the highest number of votes from their respective

areas shall serve as members of the commission.

Sec. 29.68.340. CHARTER COMMISSION ORGANIZATION AND PROCEDURE. (a) The charter commission authorized by this chapter shall hold its first meeting within 30 days of the date of certification of its election. The commission shall elect from among its members a chairman and a deputy chairman.

(b) A majority of the total membe ship of the charter commission constitutes a quorum. No decision of the commission is valid or binding unless approved by that number of members necessary to constitute a quorum.

(c) The charter commission may elect other officers from among its membership, adopt rules governing its procedures and hire and discharge commission employees. Rules adopted must conform with the provisions of this chapter.

(d) Meetings of the charter commission shall be open to the public at all times. A journal of commission proceedings shall be kept and shall be available for public inspection at the borough office.

(e) Except as provided in sec. 390(e) of this chapter, vacancies on the charter commission shall be filled by a majority vote of the commission. The person appointed to fill a vacancy must be a qualified voter of the same area as the person whom he succeeds and must have been a qualified voter of that area for at least one year immediately preceding the date of his appointment.

(f) The borough assembly may grant a per diem allowance to the commission members and may reimburse the members for travel expenses incurred in carrying out the duties prescribed by this chapter.

(g) Costs, fees, and other expenses incurred by the charter commission are a debt of the borough and shall be paid upon proper verification.

Sec. 29.68.350. CHARTER PREPARATION. (a) A charter commission established under this chapter shall prepare, adopt and submit a proposed home rule charter for the area to be unified to the voters for approval or rejection at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter. The charter shall include among its provisions:

(1) provisions for adjustment of existing bonded indebtedness and other obligations in a manner which will reserve a fair and equitable burden of taxation for debt service, subject to sec. 410 of this chapter;

(2) provision for the establishment of

(A) service areas;

(B) sections, if desired; and

(C) reapportionment of the sections, if established;

(3) provision for nonpartisan government and provision for the selection, organization, authority and responsibilities of the governing body and its executive and administrator;

(4) the transfer or other disposition of property and other rights, claims, assets and franchises of the local government to be unified under the charter;

(5) provision for exercise of the rights of initiative and referendum as required by AS 29.13.050;

(6) a method of amending the charter;

(7) the date on which the charter, if approved at the charter election required by sec. 390 of this chapter, is effective;

(8) designation of the new municipality's official name, subject to the provisions of (b) of this section;

(9) other charter provisions which the charter commission

elects to include and which may be included in a home rule charter under this chapter and the state constitution.

(b) The area to be unified shall be known as a borough or a city or by some other designation consistent with existing law as determined by a plurality of the votes cast at the election held under sec. 320 of this chapter.

Sec. 29.68.360. PUBLIC HEARINGS. Both before and after drafting the proposed charter, the charter commission shall hold a public hearing in each area of the borough represented on the borough assembly. Other public hearings may be held by the charter commission whenever and wherever it believes necessary and appropriate.

Sec. 29.68.370. FILING OF PROPOSED CHARTER. Upon the adoption of a proposed home rule charter by the charter commission, the charter shall be signed by at least a majority of the total membership of the commission and shall be filed with the borough clerk. A copy with signatures affixed shall also be filed with the clerk of each city within the borough.

Sec. 29.68.380. PUBLICATION AND POSTING OF PROPOSED CHARTER. Within 10 days after filing the proposed charter, the borough clerk shall have it published once in at least one newspaper having general circulation distributed within the borough, if there is a newspaper having general circulation distributed within the borough. In addition, the clerk shall have a copy of the proposed charter posted in at least three public places within each city of the borough and each area outside cities. Copies of the proposed charter shall be made available by the borough assembly to the public at both the office of the borough clerk and the office of the clerk of each city within the borough. The clerk shall publish notice by radio and television of the publication, posting, and availability of the proposed charter in a manner intended to apprise

the entire borough population of the existence of the proposed charter.

Sec. 29.68.390. ELECTION ON CHARTER. (a) The proposed charter adopted by the charter commission shall be submitted to the voters for ratification or rejection at the borough election specified in sec. 350 of this chapter. The borough clerk shall prepare the ballots for use in the election and shall give published notice of and otherwise conduct the election in the manner in which regular municipal elections are conducted. In addition, the clerk shall publish notice of the election by radio and television in a manner intended to apprise the entire borough population of the election.

(b) A person who is a qualified voter of the borough may vote in the election on the proposed charter.

(c) If a majority of the votes cast in the area of the borough outside all first class and home rule cities and a majority of the votes cast in the remaining area of the borough, composed of all first class and home rule cities, are cast in favor of the proposed charter, the charter is ratified. If the charter is ratified, two copies of the charter shall be filed with each of the following authorities:

(1) lieutenant governor;

(2) director of the Local Affairs Agency;

(3) district recorder for the area of the borough;

(4) clerk of the borough;

(5) clerk of each city in the borough.

(d) If a proposed charter is rejected, the charter commission shall prepare, adopt and submit a proposed charter to the voters at a general or special borough election called by the borough and held within one year of the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of unification shall be treated as if it

had never been proposed or approved.

(e) If after the rejection of the first proposed charter, more than one-half of the charter commission members resign from the commission, the borough assembly shall appoint new members to fill the vacancies in accordance with sec. 110(e) of this chapter.

Sec. 29.68.400. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon ratification, the charter of a unified municipality organized under secs. 240 - 440 of this chapter operates to dissolve all local governments within the area of unification in accordance with the charter.

Sec. 29.68.410. ASSETS AND LIABILITIES. A municipality created by unification shall succeed to all the assets and liabilities of the local governments it unified. A bonded indebtedness or other debt incurred before unification shall remain the tax obligation of the area which contracted the debt, except that the tax obligation may be spread over a larger area by ordinance if the governing body determines that the asset for which the bonded indebtedness or other debt was incurred was used for the benefit of the larger area before unification, or is so used after unification. However, pre-unification bonded indebtedness or other debt for sewage collection systems, water distribution systems, and streets, even if determined to be used for the benefit of a larger area than that which incurred the debt, shall remain the tax obligation of the area which incurred the debt.

Sec. 29.68.420. ORDINANCES. Within two years after ratification of the charter, the governing body of the unified municipality shall revise, repeal, or reaffirm all borough and city ordinances, resolutions and orders in force within the borough at the time of unification. Each ordinance, resolution, regulation, or order in force at the time of unification shall remain in force until superseded by action of the new governing body.

Sec. 29.68.430. RIGHT TO STATE AND FEDERAL FUNDS PRESERVED. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to boroughs and cities shall remain in full force and effect with respect to a unified municipality organized under secs 240 - 440 of this chapter.

Sec. 29.68.440. POWERS OF A UNIFIED MUNICIPALITY. A municipality organized under secs. 240 - 440 of this chapter shall have all powers

(1) not prohibited it by law or charter:

(2) granted to organized boroughs and first class cities.

ARTICLE 4. DISSOLUTION.

Sec. 29.68.500. METHODS OF DISSOLUTION. (a) Two petition methods may be used to initiate dissolution of home rule and general law municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission; or

(2) the local option method specified in secs. 510 - 580 of this chapter.

(b) A home rule or general law borough is dissolved when its entire territory is included within a home rule or first class city or cities. A city is dissolved when all its powers become areawide borough powers.

(c) The Local Affairs Agency shall investigate a municipality which it considers to be inactive and shall report to the Local Boundary Commission on the status of the municipality. The commission may submit its recommendation to the legislature that the municipality be dissolved in the manner provided for submission of boundary changes in sec. 12, art. X of the state constitution.

Sec. 29.68.510. PETITION. (a) Municipal residents may file a dissolution petition with the Local Affairs Agency in the form

prescribed by the agency. The petition must be signed by a number of municipal voters equal to at least 25 per cent of the number of votes cast in the last regular municipal election.

(b) The petition includes

(1) the name of the municipality;

(2) maps, documents, and other information showing that the municipality meets the standards for dissolution.

Sec. 29.68.520. STANDARDS. (a) Except as provided in (b) of this section, a municipality may petition for dissolution when

(1) it is free of debt, or if in debt, each of its creditors is satisfied with a method of repayment; and

(2) either it no longer meets the minimum standards prescribed for incorporation by ch. 18 of this title, or it ceases to use each and every one of its mandatory powers.

(b) A home rule or general law city in a borough may petition for dissolution if the borough consents to assume the city's rights, powers duties, assets and liabilities. The consent must be ratified by a majority of borough voters voting on the question.

Sec. 29.68.530. REVIEW. The Local Affairs Agency shall review a petition for content and signatures and shall return a deficient petition for correction or completion.

Sec. 29.68.540. INVESTIGATION. If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal.

Sec. 29.68.550. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendation regarding the dissolution.

(b) The Local Boundary Commission shall hold at least one public hearing in the area proposed to be dissolved.

Sec. 29.68.560. DECISION. If the Local Boundary Commission determines that the municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

Sec. 29.68.570. ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a dissolution petition. Within 30 days after notification, the lieutenant governor shall order an election within the municipality to determine whether the voters desire dissolution. The election is at least 30 and not more than 90 days after the election order.

(b) A person who is a qualified voter of the municipality may vote in the dissolution election.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results. If dissolution is approved, he shall declare that the municipality is dissolved effective on the date of certification.

Sec. 29.68.580. SUCCESSION. The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities as provided in AS 29.18.140 - 29.18.150.

CHAPTER 73. MISCELLANEOUS PROVISIONS.

Sec. 29.73.020. EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250 - 09.55.460. In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent

domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance.

Sec. 29.73.030. ADVERSE POSSESSION. A home rule or general law municipality may not be divested of title to real property by adverse possession.

Sec. 29.73.040. TAXATION OF MUNICIPALITIES. No state law or regulation may assess or tax, or be construed to assess or tax, home rule or general law cities or boroughs of this state, unless the law or regulation expressly provides that the cities or boroughs are to be assessed or taxed by the particular law or regulation.

Sec. 29.73.050. CHANGE OF MUNICIPAL NAME. (a) The governing body of a home rule or general law municipality may change the official municipal name by adopting an ordinance for the purpose and filing the ordinance with the office of the lieutenant governor. Upon receipt of a legally adopted ordinance ratified by the qualified voters voting on the question at a regular or special election, the lieutenant governor shall issue an appropriate order to the municipality changing its existing name. The name change shall become effective on a date fixed in the order and occurring within 45 days of receipt of the ordinance. A copy of the order shall be transmitted to the Local Affairs Agency.

(b) If an ordinance adopted under (a) of this section which results in an order changing the municipal name is subsequently repealed, the lieutenant governor shall issue a further order reinstating the former municipal name within 45 days of the date of the

order, unless a different municipal name is adopted by ordinance transmitted to the lieutenant governor for implementation as provided in (a) of this section.

(c) When a municipal name change takes effect by means of an order issued under (a) or (b) of this section, civil or criminal suits, applications, petitions, hearings and other proceedings to which the municipality is a party and pending at or brought after the date the name change takes effect shall proceed in the name of the municipality as changed by the order.

CHAPTER 78. GENERAL PROVISIONS.

Sec. 29.78.010. DEFINITIONS. In this title, unless otherwise provided, or the context otherwise requires,

(1) "borough" means a general law first or second class organized borough;

(2) "city" means a general law first or second class city;

(3) "conditional use" means exception, special exception, special use, or special permit designated in the zoning ordinance;

(4) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(5) "majority" means a simple majority;

(6) "merger" means dissolution of a municipality and its absorption by another municipality;

(7) "municipal election" includes but is not limited to elections to choose city councilmen, borough assemblymen, school board members and utility board members;

(8) "municipality" means a general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the state;

(9) "owner", "record owner", or "owner of record" means

owner of record or purchaser of record;

(10) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;

(11) "property" means real and personal property;

(12) "published" means appearing at least once in a newspaper of general circulation distributed within the municipality or, if there is no newspaper of general circulation distributed within the municipality, posting in three public places for at least five days;

(13) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;

(14) "regular election" means the municipal election held on the first Tuesday of October annually, or on an election date or at an interval of years provided by ordinance;

(15) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(16) "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, includes resubdivision, and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided;

(17) "voter" means a United States citizen who is qualified to vote in state elections and has been a resident of the municipality for 30 days immediately preceding the election and who is registered to vote in state elections and is not disqualified under art. V of the state constitution.

* Sec. 3. A right or liability of a home rule or general law city or

borough existing on the effective date of this Act is not affected by the enactment of this Act. Except for those provisions of ordinances in conflict with the provisions of AS 29.28.040, existing ordinances remain in force and effect for a period of 180 days from the effective date of this Act, unless earlier superseded, in order to permit amendment of the ordinances to comply with the provisions of this Act. On the effective date of this Act, the provisions of AS 29.28.040 supersede any conflicting provisions of ordinances of general law cities and boroughs.

* Sec. 4. AS 40.15 is amended by adding a new section to read:

Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVISIONS. All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to the provisions of this chapter and AS 29.33.150 - 29.33.240 and shall comply with local regulations adopted under this chapter and AS 29.33.150 - 29.33.240 in the same manner and to the same extent as subdivisions made by other landowners.

* Sec. 5. AS 29.33.240 is amended by adding a new subsection to read:

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate such streets, alleys, crossings, sidewalks or other public ways as may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (a) of this section but remains in the city.

* Sec. 6. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.037. ZONING REGULATIONS IN THE UNORGANIZED BOROUGH TO FACILITATE FEDERAL LAND SALES. (a) In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands shall exercise the zoning power by adopting zoning regulations.

(b) The division of lands shall exercise its zoning power within federal lands in the unorganized borough only at the times and in the areas it is requested to do so by the Secretary of the Interior to facilitate sales of federal lands within the unorganized borough under Public Law 88-608, 78 Stat. 988.

(c) Any zoning done by the division of lands under (b) of this section is final unless disapproved by concurrent resolution at the next regular session of the legislature.

* Sec. 7. AS 40.15.075 is amended to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD CLASS BOROUGHS. The division of lands is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.33.210 - 29.33.240 [SECS. 150 - 180 OF THIS CHAPTER]. Costs of publication and mailing as well as other costs authorized in AS 29.33.210 [SEC. 150 OF THIS CHAPTER] shall be paid to the division by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division of lands.

* Sec. 8. AS 14.14 is amended by adding a new section to read:

Sec. 14.14.060. RELATIONSHIP BETWEEN BOROUGH SCHOOL DISTRICT AND BOROUGH. (a) The borough assembly may by ordinance require that all school money be deposited in a centralized treasury with all other

borough money. The borough administrator shall have the custody of, invest and manage all money in the centralized treasury. However, the borough assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibility of a centralized treasury.

(b) When the borough school board by resolution consents, the borough assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

(c) The borough school board shall submit the school budget for the following school year to the borough assembly by April 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made available from local sources from money available for the purpose.

(d) The borough assembly shall determine the location of school buildings with due consideration to the recommendations of the borough school board.

(e) The borough school board is responsible for the design criteria of school buildings. To the maximum extent consistent with education needs, a design of a school building shall provide for

multiple use of the building for community purposes. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly.

(f) The borough school board shall provide custodial services and routine maintenance for school buildings and shall appoint, compensate, and otherwise control personnel for these purposes. The borough assembly through the borough administrator, shall provide for all major rehabilitation, all construction and major repair of school buildings. The recommendations of the school board shall be considered in carrying out the provisions of this section.

(g) State law relating to teacher salaries and tenure, to financial support, to supervision by the Department of Education and other general laws relating to schools, governs the exercise of the functions by the borough. The school board shall appoint, compensate, and otherwise control all school employees and administration officers in accordance with this title.

(h) School boards within the borough may determine their own policy separate from the borough for the purchase of supplies and equipment.

* Sec. 9. AS 14.14.065 is amended to read:

Sec. 14.14.065. RELATIONSHIP BETWEEN CITY SCHOOL DISTRICT AND CITY. The relationships between the school board of a city school district and the city council and executive <u>or administrator</u> are governed in the same manner as provided in <u>sec. 60 of this chapter</u> [AS 07.15.330] for the school board of a borough school district and the borough assembly and executive <u>or administrator</u>.

* Sec. 10. AS 29.18.120(b) is amended to read:

(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough mayor and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city. [PETITIONS TO NOMINATE BOROUGH ASSEMBLYMEN MUST INCLUDE THE SIGNATURE AND RESIDENT ADDRESS OF 50 VOTERS WHO ARE RESIDENTS OF THE PROPOSED BOROUGH IN THE AREA OUTSIDE HOME RULE AND FIRST CLASS CITIES.] Petitions to nominate elected [OTHER] municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officers are to be elected under the composition and apportionment set out in the accepted incorporation petition.

* Sec. 11. AS 29.18.120(d) is amended to read:

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough assembly members representing home rule or first class cities [ARE] appointed by the city council [AND] serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

* Sec. 12. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT. (a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b)(3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval

in each classification. If, at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

* Sec. 13. AS 29.23.040 is repealed and re-enacted to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs.

* Sec. 14. AS 29.23.050 is repealed and re-enacted to read:

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

* Sec. 15. AS 29.23.080 is repealed and re-enacted to read:

Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if the assembly seat vacated is other than an at-large seat, a resident of the borough area to which the seat was apportioned, to serve until the next regular election. However, if under a borough apportionment city councilmen are appointed

as assemblymen or elected to dual assembly-council seats, a vacancy in a councilman's seat on the assembly shall be filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

* Sec. 16. AS 29.23.030, 29.23.060(f), (g), (h), (i), (j) and 29.23.090 - 29.23.100 are repealed.

* Sec. 17. Secs. 10 - 16 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 12 of this Act becomes effective, whichever occurs earlier.

* Sec. 18. AS 29.23 is amended by adding new sections to read:

Sec. 29.23.395. PURPOSE. It is the intent of secs. 395 - 401 of this chapter to provide an opportunity for the young people of Alaska to become involved in the institutions and processes of local government comparable to that embodied in legislation under consideration at the First Session of the Seventh Legislature providing for participation in the executive branch of state government.

Sec. 29.23.397. COMMISSION. (a) The governing body of a municipality may by ordinance establish a commission on the involvement of young people in local government.

(b) The commission may consist of not more than nine members, drawn from fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17 - 22 age group, and shall include women and representatives of minority groups. The members shall be appointed by the governing body in the manner prescribed by

ordinance without regard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the governing body as chairman of the commission.

(c) Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by ordinance.

(d) The commission shall establish procedures to enable it to recommend annually to the governing body a group of promising young men and women from whom the governing body may select interns and youth voting members of municipal boards and commissions. The commission, in establishing these procedures, shall enlist the aid of municipal residents who are actively interested in working with young people. Following adoption of the procedures, the commission shall accept applications from persons and nominations for consideration, and shall interview all applicants or nominees.

(e) Recommendations of the commission shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(f) Annually, the commission shall evaluate the program and shall submit a written report to the governing body.

Sec. 29.23.399. INTERNS. An intern may be appointed to serve on the staff of the governing body or the municipal administration for a period of time prescribed by the governing body, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the municipality. Service will begin at a time prescribed by the governing body. Interns shall be appointed without

regard to political affiliation. Salaries shall be individually established by the governing body on the basis of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 29.23.401. APPOINTMENT TO MUNICIPAL BOARDS AND COMMISSIONS. (a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the municipal appointing authority for a municipal board or commission may appoint a 17 - 21 year old municipal resident to the board or commission if recommended by the commission, established in sec. 397 of this chapter.

(b) A young person recommended by the commission may be appointed to a municipal board or commission having special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a municipal board or commission under this section is entitled to the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the governing body when required by law.

(d) No additional seat on a municipal board or commission is created by virtue of secs. 395 - 401 of this chapter.

* Sec. 19. AS 29.18 is amended by adding new sections to read:

ARTICLE 4. DEVELOPMENT CITIES.

Sec. 29.18.220. LEGISLATIVE FINDINGS. The legislature finds that the development of natural resources in isolated and relatively unpopulated areas requires a policy and procedure which will provide planning, financial and other assistance necessary for encouraging orderly development of well-planned, diversified and economically sound new cities necessary to support the sound development of the state's resources by both the private and public sector. It is the purpose of secs. 220 - 460 of this chapter to set out the mutual responsibilities

of the private and public sectors to achieve these objectives with a view to securing information valuable to future legislatures so that general legislation applicable to the establishment of development cities may be perfected.

Sec. 29.18.230. DEVELOPMENT CITIES. Subject to reclassification under sec. 400(c) of this chapter, a development city is a city of the class designated by the Local Affairs Agency.

Sec. 29.18.240. INCORPORATION. An area not served by an existing municipality which is not reasonably practicable to be served by an existing municipality may be incorporated as a development city by

(1) petition of the industrial developer to the Local Affairs Agency to be acted on by the Local Boundary Commission; or

(2) act of the legislature.

Sec. 29.18.250. PETITION FOR INCORPORATION. A development city incorporation petition proposed by an industrial developer shall include the following information about the proposed city:

(1) class,

(2) name,

(3) boundaries,

(4) composition of the council,

(5) maps, documents, preliminary economic development projections, preliminary population projections, outline of the industrial developer's investigative and development expenditures and its proposed capital program, and other information required by the Local Affairs Agency to show that the proposed city meets the standards for incorporation,

(6) the proposed agreement required under sec. 330 of this chapter.

Sec. 29.18.260. REVIEW. The Local Affairs Agency shall review

the petition for content and shall return deficient petitions for correction and completion.

Sec. 29.18.270. INVESTIGATION. If the petition contains the required information, the Local Affairs Agency shall investigate the proposal to determine whether the development expenditures and proposed capital program by the developer serve the public interest and demonstrate a probability of being carried forward to a successful conclusion.

Sec. 29.18.280. REPORT. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation within 60 days of receipt of the petition for incorporation.

(b) The Local Boundary Commission shall review the petition and the findings and recommendations of the Local Affairs Agency within 60 days of receiving them.

Sec. 29.18.290. DECISION ON DEVELOPMENT CITY INCORPORATION. (a) The Local Boundary Commission may reject a petition for incorporation if it finds that

(1) the area proposed for incorporation is served by an existing municipality or could be served by an existing municipality;

(2) it is improbable that the proposed development will take place;

(3) the program and activities contemplated by this chapter may be undertaken through expansion of the corporate limits of an existing city and then declares that city to be a development city for the purpose of preferential designation under secs. 10 and 340 - 460 of this chapter;

(4) the program and activities contemplated by this chapter may be undertaken by establishing a service area within an existing

organized borough for a development project, and declares the service area to be eligible for preferential designation under secs. 410 and 450 of this chapter;

(5) the proposed development does not serve the public interest.

(b) If the Local Boundary Commission finds that a service area within an organized borough is to be designated for preferential treatment under (a)(4) of this section, the assembly may undertake the project in the manner of a development city and shall present to the Local Boundary Commission a contractual agreement outlining responsibilities assumed by the borough and the industrial developer to implement the proposed development program.

(c) The assembly may decline findings under (b) of this section to establish a service area and in the alternative request the Local Boundary Commission to approve incorporation of a development city.

(d) The Local Boundary Commission may dissolve a development city established under sec. 20 of this chapter if subsequent to its incorporation

(1) the major economic development projected does not occur within a period of five years; and

(2) if the development project had been reviewed as a new project the Local Boundary Commission determines it would have rejected the petition on the basis that it is improbable the proposed development would have taken place.

(e) A commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.18.300. PRELIMINARY PLANNING. The city shall prepare and submit to the state preliminary plans in advance of completion of the final basic comprehensive plan for the city. The preliminary plans

shall include

(1) maps, documents, preliminary economic development projections, preliminary population projections, outline of the industrial developer's investigative and development expenditures and its proposed capital program, and other information required by reviewing agencies of the state;

(2) a report on the physical and biological character of the proposed city's site and a land and water use plan and the design and siting of the community to be developed based upon these natural factors.

Sec. 29.18.310. REVIEW AND REPORT. (a) The division of planning and research, in conjunction with the Local Affairs Agency and the Departments of Natural Resources and Environmental Conservation and other departments as determined appropriate by the division of planning and research, shall review the preliminary planning and additional data may be requested.

(b) The division of planning and research shall coordinate the preparation of a report and recommendations, if any, which shall be submitted to the governor within 60 days of receipt by the state of the preliminary plans from the city. The city may proceed to the completion of the final basic comprehensive plan upon satisfying any specific recommendations contained in the report.

(c) During the course of planning toward completion of the basic comprehensive development plan the division of planning and research and the Local Affairs Agency shall be kept currently informed and the final plan shall be subject to review and recommendation by the division of planning and research, which shall act in its coordinating capacity to secure review by the Department of Environmental Conservation and other state agencies as appropriate.

Sec. 29.18.320. LIMITATION. The city may not proceed with commitment of funds or formal undertakings for physical development until it has a signed contract or contracts for sale of the company's products in quantities shown in the economic data and submitted by the company to be adequate to sustain an economically viable operation. The company may submit alternative valid evidence that the projected operation will proceed. The company shall notify the Local Affairs Agency of the meeting of this requirement. Unless the Department of Economic Development makes a determination that the data is insufficient, the city may proceed.

Sec. 29.18.330. LOCAL HIRE. In consideration of the incorporation of a development city under this chapter, the major developer shall enter into an agreement with the appropriate agencies of the state concerning

(1) establishing and maintaining an approved Department of Labor on-the-job training program to qualify Alaska residents lacking in the requisite technical skills of the activities to be undertaken;

(2) establishing resident hire goals in terms of per cent of employees at the end of the first year, second year and third year of operation;

(3) establishing the responsibilities of the various state agencies towards providing technical assistance, manpower procurement, relocation assistance, job opportunity services to residents in the area, supplemental vocational training, and the scope of effort each state agency has in this regard with specific commitments in terms of numbers of residents, time schedule and dollar value of training;

(4) establishing the penalties and conditions of noncompliance with the agreement.

Sec. 29.18.340. DEVELOPMENT CITY COUNCIL. The council of a

development city has five members consisting of the director of the Local Affairs Agency, or his designee, and four public members designated by the governor. The governor shall appoint no fewer than two public members from a list of nominees designated by the major developer providing the industrial base of the city as measured by employment and capital investment. The council shall serve at the pleasure of the governor. The designated councilmen need not be residents of the city during its development stage.

Sec. 29.18.350. FILLING A VACANCY. If a vacancy occurs in the council as constituted under sec. 340 of this chapter, the applicable appointing authority shall designate the replacement during the development stage of the city.

Sec. 29.18.360. POWERS AND DUTIES OF COUNCIL. During the development stage the council of a development city may

(1) exercise the powers and duties of a school board if the city is located outside an organized borough;

(2) exercise the powers and duties of a planning commission under AS 29.33.080, except that during the first five years or until the development city has 400 permanent residents, zoning and zoning changes will be reviewed and approved by the division of planning and research and the Department of Environmental Conservation.

Sec. 29.18.370. POWERS AND DUTIES OF DEVELOPMENT CITY EXECUTIVE DIRECTOR. During the development stage the council shall appoint an executive director of the development city, who may be one of its members, to serve at the pleasure of the council. The executive director shall have the powers and duties of all executive and administrative city officials set out in this title in order to develop the city under a comprehensive community development plan.

Sec. 29.18.380. PROCEDURES. During the development stage, the

council may provide for conference telephone or radiophone meetings at times determined by the council and shall determine its own rules and order of business.

Sec. 29.18.390. DEVELOPMENT CITY CAPITAL IMPROVEMENT FUNDS. All state agencies shall, where appropriate, adopt procedures to insure that, during the development stage, the needs of a development city are carefully considered in the allocation of funds available for capital improvement projects where those funds have not otherwise been committed by the legislature.

Sec. 29.18.400. TRANSITION. (a) When a development city has 400 permanent residents elections shall take place according to the following schedule:

(1) in the first year two additional councilmen who shall be city residents elected for three-year terms;

(2) in the second year two councilmen who shall be city residents elected for three-year terms to replace one of the councilmen nominated by the industrial developer and one of the public members designated by the governor;

(3) in the third year two councilmen who shall be city residents elected for three-year terms to replace the local affairs director and one of the councilmen nominated by the industrial developer;

(4) in the fourth year a mayor who shall be a city resident elected for a three-year term to replace the remaining councilman nominated by the industrial developer.

(b) At the time of the election under (a)(4) of this section, or any time after it, the electorate may exercise the right to become a home rule city as authorized under this title.

(c) If, within a period of five years from the incorporation of a development city, the number of permanent residents does not reach 400,

the Local Affairs Agency shall order an election for city officials and designate a successor class of city based on population as provided in this title. If the agency designates a successor class of city, the provisions of this title relating to that class of city apply, and the city shall be reclassified accordingly.

Sec. 29.18.410. HOUSING POWERS. From the time of the appointment of the first city council and for a period of 10 years following the first election of councilmen, the council may act as its own housing and urban renewal authority if such powers have been granted to cities under applicable provisions of law.

Sec. 29.18.420. LAND SELECTION. (a) The Department of Natural Resources shall attempt to secure the transfer of the available federally owned land located within the boundaries of a development city into state ownership. After the transfer, a development city may select 10 per cent of the vacant, unappropriated, unreserved state land located within its boundaries. Nothing in this section affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way or other purposes or affects the rights of an owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

(b) If land desired by the development city is unsurveyed at the time of its selection, the Department of Natural Resources shall survey or approve a survey by the city of the exterior boundaries of the area requested without interior subdivision and shall issue a patent for the selected area in terms of the exterior boundary survey. The cost of the survey is borne by the city. If land desired by the city has been surveyed at the time of its selection, the boundaries of the areas requested must conform to the public land subdivisions established by the approval of the survey. Land selected by the city under this

section is patented to the city by the Department of Natural Resources.

(c) After the selection of the land by the development city but before the issuance of final patent, the city may execute conditional leases and make conditional sales of selected land.

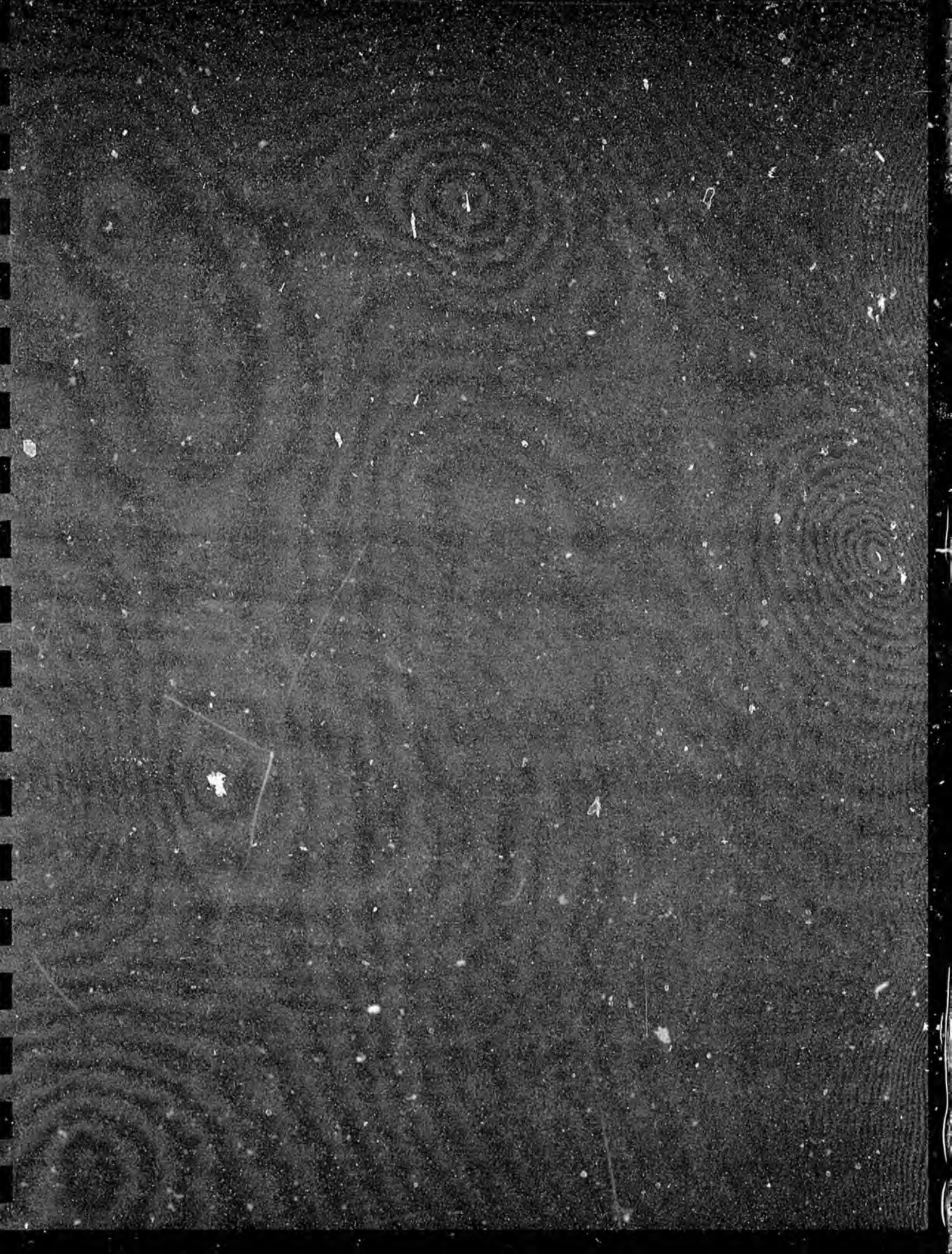
Sec. 29.18.430. REVENUE BONDS. Revenue bonds may be issued by a development city under the provisions of AS 29.58.200 - 29.58.220. However, no vote of the people is required to issue revenue bonds during the development stage. During the development stage revenue bonds may be issued by a majority vote of the city council.

Sec. 29.18.440. SHARED REVENUE. A development city is entitled to shared revenue and other state funds on the same basis as a city or organized borough of the first class or, if reclassified under sec. 400(c) of this chapter, on the basis of the reclassification. During the development stage the Local Affairs Agency may establish an assumed population figure which shall be used to determine shared revenue based on population on per capita grants.

Sec. 29.18.450. APPLICABILITY OF OTHER PROVISIONS OF THIS TITLE. All applicable provisions of this title consistent with the provisions of this chapter apply to development cities. Provisions of this chapter prevail over other provisions of this title which are inconsistent.

Sec. 29.18.460. DEFINITION. In this chapter "development stage" means that period of time extending from the date of incorporation of a development city until such time as the city may attain a population of 400 permanent residents, or five years from the date of incorporation, whichever is earlier.

* Sec. 20. The terms of elected officials who are incumbents on the effective date of this Act are not affected by this Act. Their terms expire as provided before enactment of this Act.



FCC Notebook Volume 2

Agenda, Minutes, Amendments & Bills Considered

Local Govt. Asst.

LDIR #139 (2 of 3)

VOLUME II

AGENDA AND MINUTES OF THE MEETINGS HELD
by the
JOINT LOCAL GOVERNMENTS COMMITTEES
of the
HOUSE AND SENATE

ALASKA LOCAL GOVERNMENT

AGENDA

MATTERS PENDING BEFORE MUNICIPAL CODE FREE CONFERENCE COMMITTEE

I. Proposed amendments to be considered

Page 66 - relating to appointment of bond and financial consultants
" 67 - relating to priority of boundary changes
" 68 - relating to court review of tax assessment appeals (SB 159)
" 69 - relating to voting residency requirements
" 70 - relating to full and true value definition for tax purposes to be reconsidered from last meeting.
" 72 - relating to payment of cost on election appeals
" 73 - relating to designation of temporary chairman
" 74 - relating to vote on assumption of non area-wide powers
" 75 - relating to assembly proposing formation of unification charter commission
" 76-80 - revised draft of borough composition and apportionment
" 81 - relating to flood control powers

Technical amendments relating to election dates, board and commission function and others to be submitted.

II. Policy Matters

1. Adding more detailed provisions regarding issuance of tax and other revenue anticipation notes by local governments. (SB 316)
2. Providing for borough executive in addition to manager in manager planned boroughs (consider page 22 of CSSB 113).
3. Requiring run-offs in local government elections (consider page 36, lines 5-7 in CSSB 113).
4. Adding development cities provision to code.
5. Adding provisions on operational control of local government and school facilities used jointly (see memo on page 32 of book).
6. Retention or deletion of Sec. 29.33.090 (d) (page 48 of CSSB 113).
7. Requiring systematic reevaluation of property as prerequisite to taxation regarding assessments (see draft of amendment on page 43 of book).
8. Exempting food stamp purchases from local sales taxes (see draft of amendment on page 48 of book).
9. Senior citizens local property tax relief.
10. Integration of other local government bills and consideration of other policy matters as the committee determines.

Free Conference Committee Meeting - CSSB 113
May 17, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Marilyn Miller, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sheila Gallagher, Attorney, Greater Anchorage Area Borough
Greg Wachyowsky, Legislative Affairs

A draft of the proposed Conference Committee Report summarizing changes in the proposed Free Conference Bill from the provisions of the bills before the committee was presented.

The committee decided to include in the conference report a provision that the report reflects legislative intent, where such intent is consistent with the pertinent code provision. In case of conflict, the code provision would be intended to prevail.

The committee decided to add a definition of "municipal elections" to the code to make clear that such elections include city, borough and school board elections. The committee decided to delete, as unnecessary, the definition of "general election" in the definitions chapter of the code.

The committee decided to delete the code amendment of AS 14.12.050 (Sec. 4 of CSSB 113), thus retaining present law for mandatory three year school terms (rather than setting terms at two years unless other terms up to four years are authorized by ordinance). Sec. 29.23.310 was accordingly directed to be amended, with the reference to "two" deleted and "three" substituted.

The committee approved a proposed amendment to Sec. 29.23.130 (d) making clear that when a newly adopted manager plan of goverment for a borough takes effect, the borough mayor then in office continues to serve his term as borough executive.

In response to a presentation made by Sheila Gallagher, Attorney, Greater Anchorage Area Borough, the committee amended the run-off elections provision of Sec. 29.28.040 to require that the run-off election be held two weeks from the date of certification of the initial election.

Technical amendments to recently adopted legislation incorporated in the code, i.e. development cities legislation and legislation relating to involvement of young people in local government, were noted and approved.

The committee requested that a specific check of all bills sent to the Governor, but not yet signed, be made for possible inclusion in the code, particularly the provisions of CSHB 299, intended to replace

the provisions of Sec. 29.33.170 in the bills before the committee and otherwise to be drafted into the code. It was noted that the special Act incorporating the City of Lost River was not to be included in the code, inasmuch as that Act would be codified under the "Temporary and Special Acts" binder of the Alaska Statutes.

Several amendments clarifying code intent were noted and approved, among them: provisions requesting delegations to hear and decide cases before planning commissions, platting boards and boards of adjustment (Sec. 29.33.245); provision expressly that borough assumption of additional area-wide powers under Secs. 29.33.250 - 29.33.290 precludes city exercise of the powers assumed (Sec. 29.33.010(b)); provision that borough assumption of area-wide transportation powers under Sec. 29.48.030(b) confers exclusive authority to the borough for areawide exercise of the powers unless, as to boroughs not exercising the powers areawide at the time the code takes effect as law, the Alaska Transportation Commission decides otherwise; it was noted also that the power could be assumed through the usual method of assembly petition and public vote; adjustment of provisions of Sec. 29.48.030 (b) to make clear that air pollution control powers, consistent with the provision of AS 18.30, must be exercised by a borough on an areawide basis only.

The committee authorized further technical changes in the bill as necessary to coordinate code provisions, and review of the changes with respective committee chairmen.

Bill Berrier, Attorney of the City and Borough of Juneau, and Sheila Gallagher, Attorney of the Greater Anchorage Area Borough, volunteered to read the final copy of the bill being prepared and offer any technical suggestions which might be thought necessary.

The committee decided to amend the transition section (Sec. 3) of the code to provide for 180 days, rather than 90 days, as the time period, after the code takes effect as law for bringing local ordinances into conformity with code provisions.

The committee decided to meet on Friday, May 19, 1972, 3:30 p.m. to review a draft of the conference committee report summarizing changes made by the committee in the bills before it. It was indicated that the proposed conference bill and report would be ready for distribution on the following Monday. It was also noted that an additional report of the committee would be prepared to offer an overall comparison of the code, represented by the conference bill, with existing law.

Free Conference Committee Meeting - CSSB 113
May 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Sheila Gallagher, Attorney, Greater Anchorage Area Borough
Greg Machyowsky, Legislative Affairs
Marilyn Miller, Alaska Municipal League

The committee examined copies of the proposed conference report on the code and approved the report. Advance copies of the prepared conference bill were also circulated.

The committee decided to except from the transitional provisions of Sec. 3 of the code (permitting 180 days after the code takes effect as law for adjustment of local ordinances to code provisions), the election requirement of Sec. 29.28.040, and an amendment accordingly was directed to be inserted in the transition section.

It was indicated that the final prepared copy of the code, together with the conference report, would be available for distribution Monday, May 23, 1972.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
May 17, 1972

Page 127, lines 20-21: Delete all matter.

Page 127, between lines 24 and 25: Insert the following new matter: "municipal election" means an election conducted by a municipality and includes but is not limited to elections for city council members, borough assembly members, school board and utility board members"

Page 129, lines 6-28: Delete all matter (and leave blank). renumber following sections

Page 29, line 9: Delete "two" and substitute "three"

Page 29, lines 10-12: After "office." delete all matter through "incumbent."

Page 129, line 3: Delete "90" and substitute "180"

I. SUGGESTED AMENDMENTS AND INFORMATION

Committee Minutes 3/18/72
Committee Minutes 3/21/72
Committee Minutes 3/23/72
Committee Minutes 3/28/72
Committee Minutes 3/30/72
Committee Minutes 4/ 6/72
Committee Minutes 4/11/72
Committee Minutes 4/18/72

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Amendment by Bob Thomas, Dept. of Education	18
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Memorandum from Greg Machyowsky + 2 amendments	23 - 26
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Amendment by Juneau Assessor re. Mobile Homes	31
Amendment by Rick Garnett re. schools reflecting community interest	32
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II. HOUSE BILLS

	Status
HB 41	Local Government
HB 81	" "
CSHB 86	LAW 29.95.050
HB 96	Local Government
HB 111 am	LAW
CSHB 161	Finance
HB 175	Local Government
HB 187	HWE
HB 214	Local Government
HB 240	State Affairs
HB 257	Local Government
CSHB 258 am	S. Local Government
HB 280	Local Government
HB 285	HWE
HB 290	Local Government
CSHB 296	S. Local Government
HB 315	State Affairs
HB 332	Local Government
HB 335	Rules
HB 423 am	S. Local Government
HB 456	Local Government
HB 470	" "
HB 474	" "
HB 596	" "
HB 660	" "
HB 709	S. HWE
HB 720	Local Government
HB 729	Resources

III. SENATE BILLS

SB 37	Local Government
SB 44	Finance
SB 74	LAW 07.17.020
SB 79	Local Government
SB 82	H. Finance
HCSSB 117 am H	LAW 29.25
HCSSB 119 am H	LAW 29.10.223
SB 159	Local Government
SB 189 am	LAW 40.15.075
SB 190 am H	LAW 07.15.320
SB 260	Local Government
SB 342	" "
SB 363	" "
SB 371	" "
SB 316	" "

IV.

V. MUNICIPAL CODE (CSSB 113) AND AMENDMENTS ADOPTED

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Senator Miller moved that Rep. Miller by the presiding Chairman of all meetings.

After general discussion, the committee decided on the following:

- To bring Vic Fischer and Tom Moorehouse down to help with the municipal code.
- Meeting schedule: Tuesday and Thursday evenings, 7:30 P.M.
- Notify Local Affairs Agency, Attorney General's office, Don Berry of the Alaska Municipal League, and Bill Berrier, Attorney for the City and Borough of Juneau, of the schedule of meetings.
- Should have everything engrossed before presenting to House and Senate.
- Invite Greg Nachyowshy to the meetings.

Among other matters members indicated they wished considered, were the following:

Merdes - Question of reapportionment regarding borough assembly.
- Borough assembly should have the option by right of referendum to combine school boards and assemblies into one unit.
- List of suggested amendments from Bob Thomas, Department of Education.

Naughton - Municipal election dates.

Harris - Tax exemption on property tax for elderly.

T. Miller - Suggested that the staff assistant compile a list of all bills pending or passed which would amend the code.

Groh - Policy determination - confirmation of municipal department heads by the assembly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 21, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Haughton	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League
Bill Berrier, Attorney, City & Borough of Juneau
Rick Garnett, Assistant Attorney General

All of the Senate Amendments were approved by the committee.

Senator Groh questioned if (h) of the House Education Amendment is existing law. The committee asked Bill Berrier to check this out.

A memorandum from Greg Machyowsky proposed that definitions of "property", "real property" and "personal property" be added to the Definitions section on page 123, between lines 18 and 19. Senator Groh asked how sewer and water facilities, owned by community cooperatives, would be classified. The committee asked the staff assistant to contact the State Assessor and the Greater Anchorage Borough and North Star Borough Assessors to see how they handle this.

The committee approved the Senate amendment on elections with the following provision to be included:

> "Not withstanding the other provisions of the Act, a municipality may by ordinance adopt a date other than the first Tuesday of October as the date for regular municipal elections."

Senator Miller suggested that the committee consider making mandatory three year terms for municipal officials, instead of the present two year term, unless changed by ordinance.

Rick Garnett suggested that Page 45, line 4, (g) should include wording stating that schools should reflect community interest. The committee asked that he draw up an amendment to this effect.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 76, line 19: after the word "exempt" add: "or partially exempt residential"

Page 77, line 6: change period to semicolon and add "and"

Page 77, between line 6 and 7: add the following new matter: "(C) historic sites, buildings and monuments."

Page 79, line 7: after the word "purposes" add: "except where expressly classified as personal property by municipal ordinance."

Page 124, lines 18 - 19: strike "are elected on the date provided before the enactment of this title and"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 23, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Rick Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Byron Mallott, Director, Local Affairs Agency

Senator Miller received correspondence stating that Vic Fischer and Tom Moorehouse will be able to come the first part of April.

The committee went through the proposed amendments from Greg Machyowsky, City of Anchorage and the Greater Anchorage Borough. All of Greg Machyowsky's amendments were passed by the committee.

The committee's discussion on the Greater Anchorage Borough amendment suggestions are as follows:

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 - Senator Miller suggested apportionment be at borough option with voter referendum to decide how city representatives are chosen, provided it's one-man one-vote. A city would have six months to correct the problem.

2. Sec. 29.23.090 (a) (1) - Senator Groh suggested having the Local Affairs Agency act on mal-apportionment. The committee requested Hayden Kaden to draw up an amendment on the above two sections.

5. Sec. 29.28.073 - The committee asked Hayden Kaden to draw up an amendment to this effect.

7. Sec. 29.33.080 - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden Kaden to draw up an amendment.

8. Sec. 29.33.090 (d) - Referred this section to Greg Machyowsky. The committee asked Bill Berrier to study the utilization of "police power".

9. Sec. 29.33.110 (b) (3) - The committee asked Byron Mallott to pull this out of the Anchorage Charter and give to Hayden to draw up an amendment.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 44, line 27: after "school buildings." add "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."

Page 47, line 23: after "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"

Page 61, between lines 5 and 6, add the following new matter: "preservation, maintenance and protection of historic sites, buildings and monuments"

Page 63, line 17: after "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"

Page 82, between lines 26 and 27 add:
"(e) The borough assembly sits as a board of equalization for the purpose of hearing in the manner provided for first class cities any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of that number of members of the assembly over and above the number required for a quorum to transact business and is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings in first class cities as may be adopted by ordinance, including but not limited to quorum, and voting requirements."

Page 121, line 23: before "municipality" insert "home rule or general law"

Page 121, line 26: after "09.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 121, line 27: before "municipality" insert "home rule or general law"

Page 123, between lines 18 and 19, add the following new matter:
"(10) "property" means real and personal property;
(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;
(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

Renumber the following paragraphs accordingly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 28, 1972

Members present:

Rep [illegible] Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
	Sen. E. Merdes

Others present:

Hayden Kaden, Legislative Affairs
Don Berry, Executive Director, Alaska Municipal League
Bill Berrier, Attorney, City and Borough of Juneau
Sig Strandberg, Local Affairs Agency
Rick Garnett, Assistant Attorney General

Chairman Miller stated that Barry Jackson will present testimony before the committee Thursday evening regarding apportionment.

The committee discussed the amendments Hayden Kaden drew up, as requested at last Thursday's meeting. Senator Miller asked Mr. Kaden to change the last sentence of (b) re. apportionment to read "After six months if no". The committee decided to wait until Barry Jackson made his presentation before taking final action on this.

Senator Miller brought up several policy issues for discussion.

Page 19, line 17 (f) (g) (h) (i) (j) - Senator Miller's view was that in the future weighted voting would be abolished on the basis of whether a measure was area-wide or non area-wide in nature. The committee asked Hayden Kaden to draft an amendment striking this distinction.

Page 22 - Executive Power - Senator Miller felt that in boroughs which adopt the borough manager plan of government, the municipality, nonetheless, should retain a chairman for ceremonial reasons, as much as mayors are presently retained in city-manager-governed cities. Senator Miller will refine his proposal and present it at the next meeting.

Page 107, lines 16 - 19: re. Local Boundary Commission. The committee asked Rick Garnett to draw up an amendment giving the Local Boundary Commission authority in annexations without necessarily having a vote by the people.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 38, line 24: delete the words "filing date" and add: "date on which the petition is rejected as insufficient"

Page 47, between lines 5 and 6: add a new subsection to read:
"(g) The commission may delegate the power to act, to hear and to decide if authorized to do so by ordinance of the assembly."

Page 78, line 22: after the word "agricultural" delete the words "or horticultural"

Page 61, between lines 5 and 6: add a new subsection to read:
"(21) consumer protection"

Page 35, line 28 and 29: strike "for one year"

Page 28, line 11: strike "executive and"

Page 57, between lines 16 and 17: add a new subsection to read:
"(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.58.150 and AS 29.58.350.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
March 30, 1972

Members present:

Rep. H. Miller — Sen. T. Miller
Rep. J. Harris

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Hayden Kaden, Legislative Affairs
Barry Jackson, Attorney
Bill Berrier, Attorney, City and Borough of Juneau
Bob Bettisworth, North Star Borough President
Robert Dozier, State Assessor

Barry Jackson testified before the committee regarding apportionment. Detailed written testimony was submitted to the committee for the records.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 6, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Rich Garnett, Assistant Attorney General
Greg Machyowsky, Legislative Affairs

Proposed legislation re. unification from the Greater Anchorage Area Borough was assigned to Terry Gardiner for research.

The following suggestions were made concerning the reapportionment amendment by Greg Machyowsky:

1. AS 29.23.090 be incorporated in sub-section (b) of AS 29.23.020.
2. AS 29.23.020, sub-section (b): on line 2 of this sub-section, after the words "completion of" add: "the official report of the federal decennial census or additional necessary information"
3. AS 29.23.020, sub-section (b): last line of this sub-section delete: "for abuse of discretion."
4. AS 29.23.090: Page 2, line 8, after the word "reapportionment" add: "must be made"

The committee asked Greg Machyowsky to rephrase the question on his proposed amendment re. unification. Action was postponed until Sen. Merdes returns.

Committee action on Greg Machyowsky's proposed amendment re. Reevaluation was postponed until Sen. Merdes returns.

Sen. Groh introduced an amendment relative to exclusion of cities from boroughs. This information was given to Greg Machyowsky for further study.

A memorandum was received from Sen. Merdes requesting SB 159 be considered for inclusion in the code. Sen. Groh pointed out that this insures the right to a trial--under existing law the court can refuse. The committee asked Greg Machyowsky to make the necessary changes concerning trial de novo.

Policy Decisions:

1. The committee asked Greg Machyowsky to draw up the necessary amendments changing all voting election laws from 1 year to 30 days.
2. Page 48, lines 12 - 15 (d): re. zoning and police powers -- Greg Machyowsky will work with Bill Berrier on this.
3. Sen. Miller suggested making it mandatory that candidates for elected offices should receive 40% of the votes cast.

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 11, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Tom Morehouse
Rich Garnett, Assistant Attorney General
Bill Berrier, Attorney, City and Borough of Juneau
Roger Huntington, Local Affairs Agency

The committee asked Greg Machyowsky to revise the necessary sections of his amendment re. reapportionment making it clear that a city may appoint its council members to the assembly, provided that equal representation standards are met.

The wording of the ballot proposition re. unification was adopted by the committee. Sen. Merdes offered an amendment requiring that the unification question be placed on the ballot in each borough at the next regular borough election. On hand vote, the amendment failed.

The committee adopted or decided to give further consideration to the following suggestions made by Tom Morehouse:

1. The committee asked Greg Machyowsky to draft an amendment enabling borough assemblies by ordinance to allow the placement of the unification question on the ballot.

2. Page 24, line 20 - 22: The committee asked Greg Machyowsky to draft an amendment to have the borough chairman designate an administrative officer with assembly confirmation to act as chairman during a chairman's temporary absense or disability.

3. An amendment was adopted that a municipality would pay all costs and expenses incurred in a recount when the difference is 2% or less. The committee asked Greg Machyowsky to draw up the necessary language to incorporate it in the code.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 11, 1972

Page 111, line 1 - 17: delete all matter and substitute the following: "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the _____ Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

YES [ ] NO [ ]"

Page 9, line 10: delete "encompasses a trading area with" and substitute "of the area includes the"

Page 42, line 25: delete "two-thirds"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Jim Bruce, Attorney, North Star Borough
Robert Dozier, State Assessor
Greg Machyowsky, Legislative Affairs
Robert Dupere, Consultant for Lost River Mining Co.
Ron Scheardown, Lost River Mining Co.
Pete Walsh, Nome

Jim Bruce suggested to the committee that page 64, line 4 of the code be amended re. the borough building code authority in relation to flood control. Senator Groh asked Mr. Bruce to draw up an amendment and to give it to Greg Machyowsky for further consideration at the next committee meeting.

Jim Bruce asked the committee to amend Page 82, lines 24 - 26, to include a hearing officer on the Board of Equalization. Greg Machyowsky will draft the amendment.

An amendment suggested by Bob Dozier, State Assessor, (#2 on page 70 of notebook) was adopted by the committee. Greg Machyowsky will draft the amendment for final approval at Thursdays meeting.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113
April 18, 1972

Page 83, line 2: after "facts" insert "which are"

Page 83, line 5: delete "three" and add "seven"

Joint Senate-House Free Conference Committee Meeting - CSSB 113
April 25, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency
Greg Machyowsky, Legislative Affairs
Bill Berrier, Attorney, City and Borough of Juneau

It was the decision of the committee to have the code engrossed before presenting to both Houses.

The committee asked Greg Machyowsky to draw up the necessary amendments on municipal voter qualifications, leaving length of state residency unspecified and requiring 30 days municipal residence.

The committee asked Greg Machyowsky to incorporate SB 316 into the code.

The committee asked Greg Machyowsky to draw up an amendment providing for borough mayor in addition to manager in manager plan boroughs.

The committee asked Greg Machyowsky to draw up an amendment which would provide for run-off elections for assemblymen or councilmen, if no candidate received in excess of 40% of the votes cast for that office. The election should be held two weeks after initial election.

It was the committee's decision to wait on adding development cities provision to the code until the Senate bill is acted on.

It was the committee's decision to wait on exempting food stamp purchases from local sales taxes until the House bill is acted on.

The committee asked Greg Machyowsky to draw up an amendment incorporating CSHB 296 - senior citizens local property tax relief - into the code.

The committee decided to bring up as the first order of business at the next meeting the agenda item of mass transit powers.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 7, between lines 17 and 18: insert the following new matter: "(23) AS 29.58.315"

Page 100, between lines 3 and 4: insert the following new matter: "Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds."

Page 107, line 29: add the following new matter: "(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time."

Page 83, line 8: strike "review" and substitute "trial"

Page 83, line 8: After "for" add ", and is entitled to,"

Page 83, line 9: After "action." add the following new matter: "Either party to the appeal may demand a jury trial."

Page 79, line 20: strike "amount" and substitute "estimated price"

Page 79, line 20: delete "on" and substitute "in"

Page 79, line 20: after "market" insert "and under the then prevailing market conditions"

Page 79, line 21: delete "on normal payment terms"

Page 36, line 22: after "election" insert "or the difference between the winning and a losing vote on the result contested is more than two per cent"

Page 24, line 20-21: Delete "The assembly presiding officer shall" and substitute "The borough chairman, subject to assembly approval, shall designate a person to"

Page 56, line 25: after "question" insert "in the borough area outside cities"

Page 64, line 3: after "powers" insert ", except as those code powers relate to flood control,"

Page 48, lines 12 - 15: delete all matter

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 80, between lines 26 and 27, add the following new matter:
"Sec. 29.53.095. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly."

Page 110, line 20: delete all matter and substitute: "Formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition. An assembly resolution for the purpose may be adopted not more often than once every twelve months."

Page 110, line 22: delete "for"

Page 110, line 23: delete "unification"

Page 110, line 27: delete "UNIFICATION" and substitute "ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER"

Page 112, line 2: delete "for unification"
Page 112, line 9: delete "for unification"
Page 112, line 10: after "chapter," insert "or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter"

Page 113, line 9: delete "for unification" and substitute "or adoption of an assembly resolution for the purpose"

Page 113, line 13: after "petition" insert "or adoption of the resolution"

Page 125, line 28: Add new sections to read:
"Sec. 6. AS 29.18.120 (b) is amended to read:
(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city [PETITIONS TO NOMINATE BOROUGH ASSEMBLYMEN MUST INCLUDE THE SIGNATURE AND RESIDENT ADDRESS OF 50 VOTERS WHO

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

ARE RESIDENTS OF THE PROPOSED BOROUGH IN THE AREA OUTSIDE HOME RULE AND FIRST CLASS CITIES.] Petitions to nominate elected [OTHER] municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officers are to be elected under the composition and apportionment set out in the accepted incorporation petition.

*Sec. 7. AS 29.18.120 (d) is amended to read:

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough assembly members representing home rule or first class cities [ARE] appointed by the city council [AND] serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

*Sec. 8. AS 29.23.020 is repealed and re-enacted to read:

*Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT.

(a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b)(3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval in each classification. If,

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

*Sec. 9. AS 29.23.040 is repealed and re-enacted to read:

*Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblyment or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs.

*Sec. 10. AS 29.23.050 is repealed and re-enacted to read:

*Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

*Sec. 11. AS 29.23.080 is repealed and re-enacted to read:
*Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if the assembly seat vacated is other than an at-large seat, a resident of the borough area to which the seat was apportioned, to serve until the next regular election. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, a vacancy in a councilman's seat on the assembly shall be filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

*Sec. 12. AS 29.23.030, 29.23.060 (f), (g), (h), (i), (j) and AS 29.23.090 - 29.23.100 are repealed.

*Sec. 13. Secs. 6 - 12 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 12 of this Act becomes effective, whichever occurs earlier.

Free Conference Committee Meeting - CSSB 113
April 27, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Don Berry, Executive Director, Alaska Municipal League
Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Rich Garnett, Assistant Attorney General

The committee decided to add water pollution control powers as an areawide power which could be acquired at the option of the borough, without the usual procedures for petition and vote. The committee decided to include the air pollution control laws of Title 18 on the same basis.

The committee approved the requested amendment relating to acquisition of mass transit powers areawide by boroughs and the acquisition of areawide animal control powers. With respect to mass transit powers, an additional provision was directed to be inserted calling for the Alaska Transportation Commission to decide the question of acquisition of the areawide powers by the borough if a dispute arises between a city and the borough as to acquisition. The provision would apply only in the case of boroughs not exercising mass transit powers areawide on the effective date of the code.

Senator Groh withdrew his amendment relating to exclusion of territory from boroughs.

The amendments approved for inclusion in the code relating to borough mayors in manager plan boroughs, senior citizen property tax relief, and technical amendments on election dates, delegation of powers by municipal boards and commissions and otherwise are to be drafted for approval as to form at the next meeting or otherwise are to be submitted to Rep. Miller and Sen. Miller for their review.

The committee decided to await the Senate Resources Committee proposals on pending development cities legislation before acting on inclusion of such legislation in the code. The committee declined to include food stamp purchases sales tax exemption provisions in the code.

The committee authorized preparation of a summary of changes represented by the free conference bill from bills approved in both Houses. The committee discussed expanding the summary to include a general summary of code provisions.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

"ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them."

Page 94, line 29: delete "29.58.040"and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

Page 123, line 14: after "corporation" insert "and political subdivision,"

Page 94, line 29: delete "tax"and substitute "revenue"

Page 61, line 14: after "garbage" add "and solid waste"

Page 61, line 17: after "garbage" add "and solid waste"

Page 61, line 19: after "garbage" add "and solid waste"

Page 61, line 20: after "garbage" add "and solid waste"

Page 61, line 21: after "garbage" add "and solid waste"

Page 61, line 29: after "garbage" add "and solid waste"

Page 62, line 2: after "garbage" add "and solid waste"

Page 62, line 5: after "garbage" add "and solid waste"

Page 62, line 7: after "garbage" add "and solid waste"

Page 62, line 11: after "garbage" add "and solid waste"

Page 36, line 7: After "ELECTIONS." add the following new matter:
"If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election."

Page 35, line 28: after "who" insert "is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."

Page 124, line 4: after "who" insert "is qualified to vote in state elections and"

Page 124, line 5: delete "of Alaska for one year and"

Page 124, line 7: delete "or meets registration requirements of the municipality"

Page 124, line 8: delete "if any"

Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

Free Conference Committee Meeting - CSSB 113
May 2, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. E. Merdes
Rep. J. Harris	Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency
Bill Berrier, Attorney, City and Borough of Juneau
Greg Machyowsky, Legislative Affairs
Marilyn Miller, Alaska Municipal League

The committee approved the amendment conferring mass transit powers upon boroughs and providing for city objections to exclusive area-wide exercise of the powers to be resolved by the Alaska Transportation Commission.

The committee approved the amendments conferring animal, water and air pollution powers upon boroughs.

The committee approved the amendment establishing a borough mayor in manager plan boroughs but revised that part of the amendment withholding veto powers from the mayor and directed that the amendment accord such power.

The committee approved the amendment authorizing senior citizen property tax relief and authorized some revisions in subsection (h) to reflect committee intent that a local government may grant a broader senior citizen exemption than given in the amendment but must assume the additional cost of the exemption without state reimbursement.

The committee approved several technical amendments and authorized Rep. Miller and Sen. Miller to review and approve further technical amendments to adjust code provisions as necessary to reflect and clarify committee policy decisions.

The committee decided to await further Senate action on development cities before deciding whether to include such legislation in the code.

The committee chairman announced that the committee would meet further at the call of the chair.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

Page 17, line 7: Before "first" insert "home rule or"

Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"

Page 15, line 4: Delete "Act"

Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."

Page 22, line 26: After "chairman" insert "or mayor"

Page 22, line 27: After "chairman's" insert "or borough mayor's"

Page 23, line 8: After "is" insert "an elected borough mayor but no"

Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"

Page 23, line 16: Delete "executive" and substitute "chairman or mayor"

Page 24, line 25: After "chairman" insert "or borough mayor"

Page 24, line 29: After "chairman" insert "or borough mayor"

Page 25, line 11: After "chairman" insert "or borough mayor"

Page 60, line 7: After "disposal" insert "subject to sec. 33(a) of this chapter"

Page 61, line 7: After "section" insert "or sec. 33(a) of this chapter"

Page 63, between lines 21 and 22: Insert the following new matter:
"(18) air pollution control as provided in AS 18.30"

Renumber following paragraph.

Page 63, line 29: after "cities." insert the following new matter: "However, as to powers conferred under (a)(5), (17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12: insert the following new matter: "However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

Page 75, between lines 27 and 28, insert the following new matter:
"(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (c) of this section."

Page 76, between lines 17 and 18, insert the following new matter:
"(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE
May 2, 1972

accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under this section only the amount of revenue lost to the municipality by reason of the exemption of (e) of this section may be reimbursed to the municipality by the state."

re 2-18

CITY OF ANCHORAGE ALASKA

Intercontinental
Polar air crossroads of the world

POST OFFICE BOX 7-0
ANCHORAGE ALASKA
99501

February 18, 1972

Honorable Edward A. Merdes
Alaska State Senate
Juneau, Alaska 99801

Dear Ed:

I asked John Spencer, City Attorney, to review Senate Bill No. 316 since its contents indicated it might be a problem to us if applied to Home Rule Cities. A copy of John's review and report to me (memorandum, dated 2-16-72) is attached for your information.

We hope you will consider specifically excluding Home Rule Cities from the provisions of this bill. We feel we now have adequate authority. If the provisions of this bill were made applicable we would have far greater restrictions than we now operate under. We do interim or short term borrowing of all types now without any difficulty.

Sincerely yours,

Robert E. Sharp
City Manager

RES: al
Enclosure

cc: Mr. Don Berry
Mr. Wally Droz
City Attorney
Finance Director

AIRMAIL IS FASTER

RECEIVED
FEB 17 1972
CITY MANAGER'S
OPINION NO. 39-72

City of Anchorage

MEMORANDUM

TO: City Manager

DATE: 2/16/72

FROM: City Attorney

SUBJECT: Revenue Anticipation Notes

Friday you requested that I look at Senate Bill No. 316, involving the issuance of revenue anticipation notes by political subdivisions.

It is my opinion that the City should oppose this bill, inasmuch as it is not a required piece of legislation to enable the City of Anchorage to do any borrowing in anticipation of revenues, whether federal, state or otherwise.

There have been several opinions concerning this matter written by this office at various times. The general concensus of those opinions provides that there is authority to issue anticipation notes. The City Charter states:

> "The City shall have the power to borrow money for any specific purpose and to issue its evidences of indebtedness therefor." Sec. 11.1(a)

There are three limitations to the power granted by the Charter. The first appears to be the requirement that money borrowed must be for a specific purpose. The Council resolution authorizing the borrowing of the money could certainly set this specific purpose out. Secondly, the State Constitution provides a limitation wherein we find:

> "The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year but all debts so contracted shall be paid before the end of the next fiscal year." Article IX, Sec. 10.

The third limitation is found in Section 11.1(b) of the City Charter. That section provides that a period of thirty days must elapse from the time of initial Council authorization before the Council can

unilaterally (that is, without electorate consent) enter into financing agreements. Again, that is no severe obstacle to overcome, and is just a matter of watching the time periods.

The notes can contain the wording whereby the security would be in the anticipated revenues from any of various sources, grants-in-aid, federal or state. revenue sharing from the state, bonding or any other anticipated source of income. In the event of failure of the security, the note becomes a general unsecured obligation of the City, unless otherwise set out on the note itself.

Therefore, in summary, it is my opinion that Mr. Nerdes' Senate Bill No. 316 is not a requirement for a home rule city or borough and,in fact, would appear to impose more strenuous regulations on the City concerning the anticipation notes.

The first limitation, of course, is the 50% of the amount of anticipated revenue, except in anticipation of State or Federal grants. However, in the issuance of notes in anticipation of State or Federal grants the City would be bound by the requirement of adoption of a long-range capital improvements budget which, so far as the City is concerned would be out of the question, unless we used our capital improvements program forecast as a budget, or the CIP funding for that particular fiscal year as adopted in our annual budget would suffice. However, it is not necessary under our current system to have these particular limitations, and therefore I would not support Mr. Nerdes' bill.

John R. Spencer,
City Attorney

JRS:LCM
cc: Mayor Sullivan,
Finance Director

GREATER ANCHORAGE AREA BOROUGH
3500 TUDOR ROAD
POUCH 6-650
ANCHORAGE, ALASKA 99502

CHAIRMAN'S OFFICE

February 3, 1972

Free Conference Committee
for House Bill 208 (Municipal Code)
Pouch V
Juneau, Alaska 99801

Dear Committee Members:

I understand that the Governor intends to offer some amendments to the Municipal Code (HB 208). My staff has reviewed the Code and recommends the attached changes. We feel that the recommendations numbered 7, 8, 9 and 11 are the most important.

If the Code is opened up to general and substantive change in free conference, I would appreciate any support you might give in securing these changes.

Respectfully,

for Robert W. Weeks
John M. Asplund
Borough Chairman

JMA:JBW:vp
attachment

CLEAN AIR - CLEAN WATER - A CLEAN COMMUNITY

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SECTION 2. PENDING LEGISLATION WHICH THE BOROUGH BELIEVES SHOULD BE AMENDED

The Greater Anchorage Area Borough Administration requests that the following pending legislation be amended.

(A) Municipal Code

While the Borough favors passage of the Municipal Code, it believes that the following list of amendments are practical and would permit smoother operation under the Code.

Chapter 23 - Municipal Officers and Employees

1. Sec. 29.23.020 provides standards for apportionment.

   Problem: We question re-enacting provisions known to be unconstitutional.

2. Sec. 29.23.090(a)(1) provides that an assembly initiated apportionment plan must be submitted to the Local Affairs Agency "for review".

   Problem: The meaning of "for review".

   Recommendation: State that the Agency does or does not have the power to disapprove the plan.

Chapter 28 - Elections

3. Sec. 29.28.015(b) allows one person to serve simultaneously in several offices with only a few restrictions.

   Problem: The advisability of permitting assemblymen or councilmen to sit on lesser bodies is questionable, particularly since the assembly or council often ratifies or acts as an appellate body concerning the decisions of lesser bodies. If you have the same people at different levels, it would seem to diminish your right of appeal.

   Recommendation: Add a provision allowing assemblies and councils to place further limitations on simultaneous office holding.

4. Sec. 29.28.020(a) calls for concurrent state and municipal elections.

Problem: While the goal of concurrent elections may be desirable, there is one immediate practical problem. Until election laws become uniform, it will be necessary for cities, boroughs and the state to each have a separate election board. Getting enough qualified people to man each of these boards on the same election day will be difficult.

Recommendation: Make concurrent elections optional with the municipalities; or, in the alternative, amend Title 15 of the Alaska Statutes so that election judges need not be residents of the precinct in which they function.

5. Sec. 29.28.073 provides that the clerk has 10 days from the filing of an initiative or referendum petition to certify it, and if the petition is insufficient, it may be amended or supplemented within 10 days after the filing date.

ADOPTED 3/23, 3/28

Problem: If the clerk needs or takes 10 days to check out the petition, all right to amend or supplement it would be extinguished.

Recommendation: The wording should be similar to that of the recall provision and allow the petitioner 10 days from the time of the clerk's rejection in which to amend or supplement the petition.

6. Sec. 29.28.150 provides that a petition to recall a municipal official need only contain signatures equal in number to 15% of the votes cast in the area represented by the official in the last preceding general election for officers.

Problem: Turnout for local elections often runs only about half that for state elections, and fluctuates greatly depending upon what controversial item might happen to be on the ballot. Therefore, the difficulty in exercising the right of recall will vary widely in different years.

Recommendation: Base the percentage of signatures required on the number of registered voters.

7. Sec. 29.33.080 places numerous responsibilities upon planning commissions and Sec. 29.33.245 is an attempt to take some of the pressure off of the commission.

Problem: These sections point out the re-occurring problem of stacking numerous responsibilities on administrative bodies without express provisions that some of the responsibilities may be delegated to other bodies, and that other sub-administrative bodies may be created if necessary. In the past we have used a Board of Examiners and Appeals to handle appeals from administrative decisions and requests for variances. Even then, the Anchorage Planning Commission is overworked. While the hearing officer provisions of Sec. 29.33.245 will provide some relief, we think it desirable to give local legislative bodies more leeway in this area.

Recommendation: Add a provision to the Municipal Code allowing assemblies and councils some flexibility to delegate and re-distribute functions and to establish separate boards as necessary.

8. Sec. 29.33.090(d) provides that "(t)he designation of zoning purposes does not confer police powers upon a borough except as authorized by this title nor does it prohibit cities within the borough from exercising police powers as to those purposes".

Problems: The first part of the subsection seems to be a restatement of the obvious. Giving planning power to a borough does not give the borough general police power. On the other hand, the planning function would include the implied police powers necessary to carry out that function. The "except as authorized" wording of the section might be read to require individual express powers before a borough could act in the various areas of planning and, therefore, restrict a borough from operating with powers which are implied but not expressly authorized by the title.

The second part of the subsection indicates that cities within a borough may enforce planning and zoning ordinances, and raises the question of whether a home rule city could pass and enforce its own planning and zoning ordinances. This again flies in the face of an areawide planning concept.

Recommendation: Eliminate the entire subsection.

9. Sec. 29.33.110(b)(3) provides for appeals from decisions on requests for variances from the planning commission to the board of adjustment.

Problem: This again brings out the problem discussed in Item 7 above. The Greater Anchorage Area Borough uses a board of examiners and appeals to hear requests for variances, and appeals are made directly to the board of adjustment. Article 4 seems to indicate that we could no longer use a body other than the planning commission or its representatives to hear such requests.

Recommendation: As recommended in Item 7 above, add a general provision to the Municipal Code allowing local governments the flexability to delegate and re-distribute functions and to establish separate boards as necessary.

Chapter 53 - Municipal Assessment and Taxation

10. Sec. 29.53.035(c) includes in the definition of "farm use" lands put to a "horticultural use."

Problem: Garden supply and plant stores have been claiming the farm and agricultural reductions.

Recommendation: Exclude the term "horticultural use" from the definition of "farm use."

11. Sec. 29.53.040 classes mobile homes as real property for tax purposes.

Problem: While such a change might help municipalities which don't tax personal property, it will be an administrative nightmare for the other municipalities. The Anchorage Borough would have approximately 8,000 pieces of real property which move, and the burden would be shifted to the Borough to keep track of each. Under the present system the owners must file returns or be subject to prosecution. On the other hand, if trailers are to be treated as realty, the borough will need to find and file on each of them, and a failure to do so would result in the owner not carrying his share of the tax burden

Recommendation: Make the provision optional.

12. Sec. 29.53.080 permits the assessor to make his own evaluation of property when no return has been filed.

Problem: If the assessor doesn't find the property until after the return should have been filed, the law is unclear as to when penalty and interest provisions apply.

Recommendation: A provision should be added that penalty and interest accrue from the original due date which would have applied had the taxpayer filed a timely return.

13. Sec. 29.53.030 makes it a misdemeanor to file a fraudulent return.

Problem: It is almost always difficult to establish the necessary intent in order to prove fraud. In addition, it is questionable whether a misdemeanor will offer a strong enough deterrent. In the few cases where fraud can be proven, we think it would be desirable to make examples out of the perpetrators of the fraud.

Recommendation: Add a provision whereby the state may prosecute fraudulent returns as a felony rather than the municipalities prosecuting them as misdemeanors.

14. Sec. 29.53.120 provides for correction of errors and omissions in the assessment roll, and for appeals from corrected notices.

Problem: Most municipalities allow 30 days for appeal from errors in assessment rolls. Under Sec. 29.53.120(B) the appeal time would necessarily be extended an extra 30 days, substantially delaying the procedure.

Recommendation: Require all errors to be appealed within 30 days, and if a satisfactory adjustment can be made before the Board of Equalization meets, the appeal could then be dismissed.

15. Sec. 29.53.390 contains provisions for refund of taxes.

Problem: Because of the cost of processing minor refunds, it would be desirable if small overpayments could be ignored.

Recommendation: Add a provision whereby overpayments in the amount of $1.00 or less may be written off unless a specific demand is made for the refund within 30 days.

GREATER ANCHORAGE AREA BOROUGH
3500 TUDOR ROAD
POUCH 6-650
ANCHORAGE, ALASKA 99502

DEPARTMENT OF LAW
279-8633

December 7, 1971

CLEAN AIR * CLEAN WATER * A CLEAN COMMUNITY

Senator Edward A. Merdes
504 Monroe Street
Fairbanks, Alaska 99701

Dear Ed:

Sorry to be so late in responding to your request for additional comments on the Municipal Code. We circulated the Code to all department heads then sifted through their comments to put together a package of suggested amendments. There were many minor comments but the ones in the enclosure are those I felt the most substantive.

If you would like comments on any other provision, I would be happy to oblige as I have a fairly fat file on the subject but thought I'd spare you another ton of paper.

Of course we stand willing to testify or do whatever is necessary to aid you in your consideration of the bill, so feel free to call upon me at any time.

Sincerely,

Sheila Gallagher
Borough Attorney

SG:gv
cc: Senator Terry Miller
Senator John Rader

SECTION II. PENDING LEGISLATION WHICH THE BOROUGH BELIEVES SHOULD BE AMENDED

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Recommendation: State that the Agency does or does not have the power to disapprove the plan.

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Recommendation: Make concurrent elections optional with the municipalities; or, in the alternative, amend Title 15 of the Alaska Statutes so that election judges need not be residents of the precinct in which they function.

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Recommendation: Base the percentage of signatures required on the number of registered voters.+

7. Sec. 29.33.080 places numerous responsibilities upon planning commissions and Sec. 29.33.245 is an attempt to take some of the pressure off of the commission.

Problem: These sections point out the re-occurring problem of stacking numerous responsibilities on administrative bodies without express provisions that some of the responsibilities may be delegated to other bodies, and that other sub-administrative bodies may be created if necessary. In the past we have used a Board of Examiners and Appeals to handle appeals from administrative decisions and requests for variances. Even then, the Anchorage Planning Commission is overworked. While the hearing officer provisions of Sec. 29.33.245 will provide some relief, we think it desirable to give local legislative bodies more leeway in this area.

Recommendation: Add a provision to the Municipal Code allowing assemblies and councils some flexibility to delegate and re-distribute functions and to establish separate boards as necessary.

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Recommendation: Eliminate the entire subsection.

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Recommedation: As recommended in Item 7 above, add a general provision to the Municipal Code allowing local governments the flexability to delegate and re-distribute functions and to establish separate boards as necessary.+

KFC 5 Chapter 53 - Municipal Assessment and Taxation

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Problem: Garden supply and plant stores have been claiming the farm and agricultural reductions.

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Recommendation: Make the provision optional.

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Recommendation: Add a provision whereby the state may prosecute fraudulent returns as a felony rather than the municipalities prosecuting them as misdemeanors.

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Problem: Most municipalities allow 30 days for appeal from errors in assessment rolls. Under Sec. 29.53.120(B) the appeal time would necessarily be extended an extra 30 days, substantially delaying the procedure.

Recommendation: Require all errors and omissions to be appealed within 30 days, and if a satisfactory adjustment can be made before the Board of Equalization meets, the appeal could then be dismissed.

+15. Sec. 29.53.390 contains provisions for refund of taxes.

Problem: Because of the cost of processing minor refunds, it would be desirable is small overpayments could be ignored.

Recommendation: Add a provision whereby overpayments in the amount of $1.00 or less may be written off unless a specific demand is made for the refund within 30 days.+RFC 6

BOX 335

CITY OF HOMER

HOMER, ALASKA 99603

February 22, 1972

Mr. Edward A. Merdes
State Senate
State Capitol Building
Juneau, Alaska 99801

Dear Mr. Merdes,

At their meeting, February 14, 1972, the Common Council of the City of HOmer, by a vote of 5 to 0 (with one member absent), voted to support legislation that would give any First Class City, within a Borough, the right to plan, direct and enforce their own zoning. Such action would place the responsibility for zoning on those who are directly affected by it.

Your support of such legislation is encouraged.

Yours truly,

Jack J. Greene

Jack J. Greene
City Manager

JJG/cc

Sen. Nardi:

Does report in Fire
Conference Committee?

Relative to other
appropriations to towns
via auto portal revenue
50% or 100%?

Dept Educ (Re Trans)
Rocco Amodio

14.14.060

(d) In the location determinations multiple use of the facilities including but not limited to libraries and recreational activities shall be considered.

(e) The design shall take into consideration multiple utlizations of the school building and school site.

(d) (f) Providing that multiple use activities os said facilities may be an assembly designated responsiblity of the school board.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

August 2, 1971

M E M O R A N D U M

TO : Senator John Rader, Senate Local Government Committee
Rep. Mike Miller, House Local Government Committee

FROM : Greg Machyowsky, Legislative Counsel

SUBJECT: Incorporation of 1971 Session Laws into proposed municipal code; other minor code amendments

A number of session laws enacted late in the first session of the Seventh Legislature amend existing Titles 7 and 29 and are not subsumed in the latest version of the proposed municipal code which was pending in Senate Rules at the close of the last session. Amendments to incorporate the substance of these session laws are attached; should they not be incorporated into the proposed code and the code is enacted, they will have been repealed from existing laws, since the proposed code repeals existing Titles 7 and 29.

I am attaching also an amendment which should be included with the technical amendments already made to the code. The amendment is minor and only preserves the consistency of distinctions maintained elsewhere in specific code sections as to which provisions bind home rule and general law municipalities under sec. 29.13.100 (pp. 7-8) of the proposed code.

Greg

GM:hg
Enclosures

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page ~~48~~ 47, line 23: After "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"

Page 61, between lines 5 and 6, add the following new matter: "preservation, maintenance and protection of historic sites, buildings and monuments"

Page 63, Line 17: After "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"

Page 77, between lines 5 and 6 add the following new matter: "(C) historic sites, buildings and monuments"

adopted by com. 3/21

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page 121, line 23: Before "municipality" insert "home rule or general law"

Page 121, line 27: Before "municipality" insert "home rule or general law"

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS CSHB 208

Page 121, line 26: After "07.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by o dinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

MEMORANDUM February 14, 1972

To: Rep. Mike Miller, Chairman
House Local Government Committee

From: Gregg Macdonald

Re: Additional suggested municipal code amendments

Enclosed are the two "optional" amendments I mentioned for inclusion in the Conference report on the code. Both are recommended for technical reasons. With respect to the definition of property provided in one amendment, Bob Dozier or Liz Strandberg of Local Affairs can as I recall provide the background on the requested amendment, which the Local Affairs agency proposed towards the close of last session but did not consider indispensable; a definition of "property", "real property" and "personal property" I believe appeared in versions of the code some years ago but for some reason was subsequently omitted.

The other amendment, while further complicating the transitional provisions (p. 124, lines 14-19 respecting a uniform November local election date, would nonetheless avoid confusion in implementing the new election date and is recommended if the mandatory November election date continues to be retained in the code.

Incidentally, in the technical amendments furnished to you earlier, the first citation, in

The amendment reading "5 The next succeeding paragraph, commencing with the word "Page 47, line 23", in place of "Page 48, line 23" as presently reads.

Corrections made 3/23/72

A M E N D M E N T

IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208

Page 123, between lines 18 and 19, add the following new matter:

"(10) "property" means real and personal property;

(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;

(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

enumber the following paragraphs accordingly.

A M E N D M E N T

IN THE SENATE BY THE LOCAL GOVE..NMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208 (as amended)

Page 124, line 19: Before the period at the end of the sentence add the following new matter:

", except that, in the event the term of a local official elected after the effective date of this Act could under this section expire in November of the same year as the term of a local official elected before the effective date of this Act within the same city or borough, their terms shall nonetheless expire and an election for their successors be held, on the same date, being the regular municipal election date provided before enactment of this title. Their successors shall serve for terms to conform with the provisions of this title. Insofar as the temporary provisions of this section conflict with other provisions of this Act establishing dates of municipal elections and terms of office, the other provisions of this Act are superseded until the temporary provisions of this section have been fully implemented"

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

April 16, 1971

M E M O R A N D U M

TO: Representative Mike Miller

FROM: Greg Machyowsky, Legislative Counsel

SUBJECT: Attached amendments

As requested I've prepared an amendment for CSHB 208 (as amended) setting the regular municipal election date on the first Tuesday in October rather than the Tuesday after the first Monday in November. The amendment is prepared for the Senate. It should be noted that it does not affect the present provision of the bill setting the election every two years at the time of the state election, rather only sets that regular election date in October. Thus, if adopted, the amendment would result in local elections in October every two years, followed by state elections the next month, unless municipalities choose by ordinance to provide for local elections every year on the first Tuesday of October, as under present law. If regular local elections every two years in the off-year of the state election are intended, then the amendments made on pages 35 and 123 in the attached amendment should read:

> Page 35, line 23: Strike "Tuesday after the first Monday in November every even-numbered year" and substitute "first Tuesday of October every odd-numbered year"
>
> Page 123, lines 24 - 25: Strike "Tuesday following the first Monday in November of even-numbered years" and substitute "first Tuesday of October of odd-numbered years"

As indicated, the bill still leaves the option to local governments to provide for an election every year (or even at longer intervals than every two years).

Senator Merdes hasn't specifically requested a Senate amendment to change election dates. I'm furnishing the amendment to you in accordance with your request yesterday to have the amendment ready.

Another, shorter amendment, is enclosed, also; it would make a few desirable technical improvements and corrections. If other amendments to the bill are adopted in the Senate, I would recommend that the amendments on the enclosed sheet (for pages 17, 25, 65, 73, 106 and 124 of the bill respectively) be also adopted. The first two,

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on page 17, are for clarification only (as now worded the lines seem to contemplate an election only in state election years, whereas elections every year at the option of the local government are also intended). The amendment on page 25 corrects an error; the line in the bill (line 28) erroneously stipulates a general law city council election every year. As to this one amendment, the lengthier amendment to change election dates also includes the correction (in effect deleting the phrase "every year" on page 25, line 28).

The amendments following clear up ambiguity in the use of the term "general" election when "regular" election is meant; the ambiguity developed in the process of integrating existing recently enacted statutes on franchise and property disposal elections into the committee substitute bill. Except possibly for the correction on page 25, none of the amendments would appear to me important enough to complicate or delay passage of the code, and if necessary can be recommended as corrections in the revisor's bill next year. (There undoubtedly will be a number of other minor technical matters cropping up in the course of detailed examination of the committee substitute bill as enacted.)

I've also made a minor technical improvement, at page 124, line 17, making clear that incumbents in office at the time the Act takes effect serve until the October expiration date of their terms, and the elections for immediate successors are held in October, notwithstanding the present provisions for November elections.

Encl.

GM:ic

A M E N D M E N T No. 1

IN THE SENATE

TO: CS FOR SENATE BILL NO. 113

Page 17, line 28: Strike "at the time of the general election" and substitute "on the first Tuesday of October"

Page 18, line 1: Strike ", unless provided otherwise by ordinance"

Page 22, line 29: Strike "Tuesday after the first Monday" and substitute: "first Tuesday of October"

Page 23, line 1: Strike "in November"

Page 25, lines 28 - 29: Strike "every year on the Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 27, lines 12 - 13: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, lines 22 - 23: Strike "municipal election on the Tuesday following the first Monday in November" and substitute "election held on the first Tuesday of October"

Page 35, line 23: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 123, line 24: Strike "Tuesday following the first Monday in November" and substitute "first Tuesday of October"

Page 124, lines 18 - 19: Strike "are elected on the date provided before enactment of this title and"

A M E N D M E N T No. 2

IN THE SEMATE

TO: CS FOR HOUSE BILL NO. 208 as amended

Page 17, line 27: Strike "an election" and substitute "a regular election"

Page 17, line 28: Strike "at the time of the general election"

Page 25, line 28: Strike "every year"

Page 65, line 15: Delete "general" and substitute "regular"

Page 73, line 12: Delete "general" and substitute "regular"

Page 106, line 19: After "question" insert "at a regular or special election"

Page 124, line 19: After the period add the following new matter: "Insofar as the temporary provisions of this section conflict with other provisions of this Act relating to municipal elections and terms of office, the other provisions of this Act are superseded until the temporary provisions of this section have been fully implemented."

Adopted 4-7 cmte 3/21

CS FOR SENATE BILL NO. 11

TITLE 39. MUNICIPAL COVERNMENT

BE IT ENACTED BY THE LEGISLATURE OF [illegible]

Section 1. AS 39.33.010 is amended to read:

Sec. 29.33.010. MOBILE HOMES. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office or commercial purposes and connected to the land or connected to water, gas, electric or sewage facilities are classed as real property for the purposes of [illegible] classification of real property by municipal ordinance. This section does not apply to house trailers and mobile homes which are retained for sale by persons engaged in the business of selling mobile homes.

STATE
of ALASKA

MEMORANDUM

TO: Mike Miller

DATE:

SUBJECT:

FROM: Rick Garnett

On the school design matter we discussed last night I suggest page 44, line 28: after"School buildings" insert something like "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."

I spoke with Bob Thomas about this. I believe he will contact you about the other more controversial question of some assembly control over non school use of school buildings.

02-001A Rev. 2-71

HOUSE EDUCATION AMENDMENT

Section (g)

The second sentence in the House Education Amendment AS 14.14.060 (g) is a separate section in the present statute 07.15.330.

Section (h)

AS 14.14.060 (h) of the House Education Amendment is the present language contained in 07.20.140:

> 07.20.140 Centralized Purchasing - The assembly may provide for centralized purchasing, storage, and distribution of any supplies, material, and equipment for the borough and for its departments; provided, however, school boards within the borough may determine their own separate policy for the purchase of supplies and equipment.

A M E N D M E N T S

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

"* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The borough assembly shall be composed and apportioned in a manner set out in the incorporatio petition or, if a borough is already incorporated, in a manner pre scribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section. This ordinance shall be submitted to an election of the qualified voters in the borough and must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If the ordinance is rejected by the voters, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation standards of the Constitution of the United States.

* Sec. 7. Sec. 6 of this Act takes effect on the effective date of the amendment of the Constitution of the State of Alaska which amends the local government of the constitution relating to representation of cities on borough assemblies."

Amendments to: CSSB 113
By the Free Conference Committee (Cont.)

Page 1, line 7: after "boroughs" and before the period insert:

"; and providing for an effective date"

Page 38, line 24 delete the words, "filing date" and add:

"date on which the petition is rejected as insufficient"

Page 47, line 6: add a new subsection to read:

"(g) The commission may delegate the power to act, to hear and to decide if authorized to do so by ordinance of the assembly."

Page 78, line 22: after the word "agricultural" delete the words "or horticultural"

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller

DATE:

SUBJECT:

FROM: Rick Garnett

To avoid conflict between annexation via the constitutional proceedure and annexation by local action, I suggest the following: page 107, line 18, after "for" insert " initiation of"

Add new paragraph (c) "A boundary change effected under paragraph (a) prevails over a boundary change initiated by local action, without regard to priority in time."

02-001A Rev. 2-71

A M E N D M E N T S

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The borough assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section. This ordinance shall be submitted to an election of the qualified voters in the borough and must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If, at the end of the six-month period, no ordinance has been ratified by the voters, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation standards of the Constitution of the United States.

* Sec. 7. AS 29.23.060(f), (g), (h), (i) and (j) are repealed.

* Sec. 8. Secs. 6 and 7 of this Act take effect on the effective date of the amendment of the Constitution of the State of Alaska which amends

Amendments
To: CS for SB 113 by the Free Conference Committee (cont.)

sec. 4, art. X of the constitution relating to representation of cities on borough assemblies or on the date that the Alaska Supreme Court rules that the provisions of sec. 4, art. X of the Constitution of the State of Alaska, relating to the representation of cities on borough assemblies, is in violation of the Constitution of the United States, whichever date occurs first.

Page 61, line 6: add a new paragraph to read:

(21) consumer protection.

Page 107, line 18: after "for" add "initiation of"

Page 107, line 29: add a new subsection to read:

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

Page 28, line 11: delete the words "executive and"

Page 35, lines 28 and 29: after "who" delete "has been a resident of Alaska for one year and" and add: "is a qualified voter of the state and a resident"

Page 57, line 17: add a new subsection to read:

(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.-



ALASKA OUTBOARD SERVICE

Parts - Sales - Repairs



1405 Tongass Avenue
KETCHIKAN, ALASKA 99901

January 25, 1972

Honorable Mike Miller
House of Representatives
Juneau, Alaska

Dear Mike:
As I recall you are the Chairman of the House Local Gov't committee, if I'm wrong I'd still like to offer a suggestion.

I've just finished a three month stint as chairman of a local committee to study the feasibility of Unification for this area, our report was affirmative. I must say at this point that in examining the steps in the procedure for reaching unified local Gov't I was a bit puzzled. It would seem to me that the logical steps would be; One, circulate the petition for the twenty five per cent , two, with the required amount of signatures hold an election for the charter commission, three, when the charter is prepared and examined by the public, then have an election at which time the public would be given the opportunity to vote for or against unification based on whetner or not they wanted it as provided for in the charter.

As I understand the statutes on the books the public is required to votefor or against unification without having the charter, which sets out the terms and conditions, before them for examination. It would seem to me that this is asking the voting public to buy a pig in a poke.

I'm sure that our community is no different in the fact that we will encounter most of our opposition from the rural area. These people aren't about to be sold on unification unless they know in advance what that charter is all about.

It seems to me that the law as now written presents unnecessary obstacles to those persons in a community who only wish to fairly and honestly present an opportunity to upgrade and improve their local Gov't.

It is my personal conviction that Unified local Gov't is the way of the future in Alaska, therefore I feel that it is not beneficial that efforts in that direction be hamstrung by poor legislation, if not poor legislation at least it's unecessarily cumbersome.

I'd appreciate your giving this some thought.

Respectfully,

Oral E. Freeman

A M E N D M E N T

TO: CS FOR SENATE BILL NO. 113 BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

" Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION AND APPORTIONMENT. (a) The assembly of a home rule or general law borough shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

(b) Within six months of the effective date of this section and thereafter within six months of the completion of a federal decennial census, the assembly shall prescribe by ordinance the composition and apportionment of the assembly as provided under (a) of this section, if the existing assembly apportionment does not meet the designated standards. The ordinance shall be submitted to an election of the qualified voters in the borough and to be effective must be ratified by a majority of the voters in all first class cities in the borough and by a majority of the voters outside the first class cities in the borough. If, at the end of the six-month period, no ordinance has been ratified, the Local Affairs Agency shall apportion the assembly in a manner consistent with the equal representation

standards of the Constitution of the United States. Determinations and reapportionments made under this section are subject to judicial review for abuse of discretion.

* Sec. 7. AS 29.23.090 is repealed and re-enacted to read:

Sec. 29.23.090. REAPPORTIONMENT. In addition to apportionment at the times required under sec. 20 of this chapter, the assembly of a home rule or general law borough shall provide for its reapportionment whenever, on the basis of U.S. Bureau of Census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in sec. 20 of this chapter. The assembly is required to make the determination, and, if indicated, the reapportionment upon petition of 50 borough voters. The petition must include evidence that the apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or action of the Local Affairs Agency in the manner prescribed in sec. 20 of this chapter. Determinations and reapportionments made under this section are subject to judicial review for abuse of discretion.

* Sec. 8. AS 29.23.060(f), (g), (h), (i) and (j) are repealed.

* Sec. 9. Secs. 6 and 7 of this Act take effect upon the condition and at the time that an amendment to sec. 4, art. X of the Constitution of the State of Alaska, relating to representation of cities on borough assemblies, becomes effective or the Supreme Court of the State of Alaska finds that the provisions of sec. 4, art. X are in violation of the Constitution of the United States, whichever occurs earlier.

A M E N D M E N T

BY THE FREE CONFERENCE COMMITTEE

TO: SCS CSHB 208 am S

Page 124, between lines 19 and 20: Add the following new matter:

* Sec. 4. (a) Other provisions of this Act notwithstanding, the assembly of a first or second class borough which is an incorporated borough on the effective date of this Act shall submit to borough voters at the next regular borough election following the effective date of this Act the question:

"Shall the borough and all cities within it unite to form a single unit of home rule government having the powers, duties and functions of a unified government as provided by law?"

Yes ___ No ___ "

(b) If a majority of borough voters voting on the question approve unification, the assembly shall provide for election of a charter commission at the next regular borough election, or at a special election called by the assembly. The commission shall be nominated and elected and shall prepare, adopt and submit to the voters a proposed unification charter, as otherwise provided in this Act. The provisions of this Act relating to unification otherwise govern unification under this section, except that if a charter submitted by the commission for voter approval is rejected, the commission shall continue to function and submit revised charter provisions until such time as a charter may be ratified.

(c) Nothing in this section prevents initiation of unification proceedings by local option as otherwise provided in this Act at a time subsequent to defeat of unification in an election on the question set forth in (a) of this section.

Renumber subsequent sections accordingly.

A M E N D M E N T

BY THE FREE CONFERENCE COMMITTEE

TO: SCS CSHB 208 am S

Page 80, between lines 26 and 27, add the following new matter:

Sec. 29.53.095. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly.

Page 83, line 9: after "action." add the following new matter: "Either party to the appeal may demand a jury trial."

FAIRBANKS NORTH STAR BOROUGH

Box 1267, Fairbanks, Alaska 99701

April 6, 1972

The Honorable Mike Miller
Alaska House of Representatives
Pouch V, State Capitol Bldg.
Juneau, Alaska 99801

Dear Mr. Miller:

I hastily put my thoughts on statutory reapportionment scheme in a letter to Ed Merdes. Hopefully, I will have more than these skeletal ideas in time for you to act on the municipal code but at least you have some of my thoughts even if in a crude form.

Yours very truly,

James L. Bruce
Borough Attorney

JLB/gc

encl.

FAIRBANKS NORTH STAR BOROUGH
Box 1267, Fairbanks, Alaska 99701

April 5, 1972

The Honorable Edward A. Merdes
Alaska State Senate
Pouch V, State Capital Bldg.
Juneau, Alaska 99801

Dear Ed:

I am working on provisions to expedite unification but want you to have my ideas on apportionment immediately.

The City of Fairbanks suit against the borough seems to be developing into a conflict to determine whether or not city councilmen should sit on borough assemblies. The rural assemblymen argue that the assembly should be composed of members elected at large. The city's position is apparently that it is proper for one man to be elected to both a city council and an assembly seat so long as the city from which he is elected has the requisite population to entitle that population to a seat on the assembly. It is my opinion that the current struggle between the rural and city assemblymen is not so much legal but political.

It is obvious, however, that if assemblymen are not to be elected at large some mechanism for regularly apportioning assemblies must be developed.

At the direction of the borough chairman, John Carlson, I have given some thought to a permanent appertionment scheme other than at large elections for borough assemblies. The following proposal should meet the constitutional requirement of one man/one vote and provide necessary flexibility to meet population changes but still be enacted as a permanent statute.

If assemblymen are to be selected from cities or sections of a borough, I suggest the following might be incorporated into an apportionment statute. (1) Regular reapportionment shall be required after each census, (2) under a plan drafted after a public hearing, (3) by a local entity elected at large and independent of the assembly, (4) but which plan must receive assembly approval, and (5) or if approval is not given a superior court can order reapportionment. Provision is not made for final approval by the electorate because the equal protection clause applies to every citizen and any aggrieved voter can upset an unconstitutional plan even if the plan is approved by majority vote.

The corresponding provisions in the municipal code to the present AS 07.10.040 and AS 07.20.070 should be amended to provide for the following:

borough assemblymen may be elected at large or from sections. A referendum shall be held to determine the method of electing assemblymen. If the major-

ity of those persons voting favor electing asserblyman from sections, the following provisions shall govern reapportionment.

A person may be elected to hold a seat on a city council and the borough assembly simultaneously.

After each decennial census, of if a census is provided at more frequent intervals, borough assemblies must be reapportioned.

In boroughs under the manager plan, after each census a board of three members elected at large shall be charged to draft reapportion plans for the borough assembly. In boroughs having a borough chairman, the chairman should be charged, by statute, with the duty of formulating plans. Whether by board or chairman, the following steps would be the same.

Immediately after the results of a census were made available, the board or chairman is directed to hold at least one hearing to receive proposals from the public for reapportionment of the borough assembly. After such hearing, or hearings, the board or chairman shall prepare an apportionment plan to be submitted to the assembly. The assembly should receive the plan not less than 120 days prior to the next general borough election. If the results of the census were not known at least 150 days prior to general election, such an election should be postponed until 120 days after the chairman proposed a plan to the assembly.

Thirty days after submission of the board's or chairman's plan to the assembly, the assembly, by resolution, must approve or disapprove the plan and if no action be taken, the plan shall be deemed approved. If the assembly disapproved the plan, the board or chairman shall have 15 days to submit a second plan to the assembly. The assembly must approve or disapprove that plan within 15 days from the date of submission. Failure to act by the assembly shall be deemed approval of the second plan. If the assembly disapproved both plans, the board or chairman is directed by statute, within seven days, to file a complaint in superior court seeking a court order that either the first or second plan be instituted. Any assemblyman or citizen of the borough could answer the complaint requesting amendments to the plan or that a new plan be instituted by the court. The court would be empowered to stay any election for borough assemblymen pending an ordered election. It should be provided that any action of the assembly be valid and binding during any interim or stay periods until an election is held.

Please excuse the rough form of this letter. I sent a copy to Richard Garnett hoping he can put my skeletal ideas in appropriate statutory form.

Because it is usually impossible for a politician to reapportion himself out of office, I suggest that the initial steps for reapportionment be taken from the hands of the assemblymen and placed in an independent entity. It

has been suggested to me that the state should handle reapportionment of local assemblies but it is my opinion that a state agency would have insufficient interest to p.operly delve into local problems. The borough chairman, or a reapportionment board especially elected for the purpose, seem more appropriate entities to formulate apportionment plans.

Sincerely,

James L. Bruce
Borough Attorney

JLB/gc

cc: Sen. Cliff Grow
Sen. Terry Miller
Rep. Jess Harris
Rep. Mike Miller
Rep. Ed Naughton

A M E N D M E N T

TO: SENATE CS FOR CS FOR HOUSE BILL NO. 208 am S

Page 93, between lines 17 and 18 of CSSB 113:

After the Senate amendment adding subsection (d), add subsection (e) to read:

(e) Purchases made with food coupons issued to low-income persons under the federal Food Stamp Act of 1964, as amended, are exempt from sales taxes levied and collected by an organized borough, whether home rule or otherwise.

Page 94, between lines 11 and 12 of CSSB 113:

Insert a new section to read:

Sec. 29.53.470. EXEMPTION. Purchases made with food coupons issued to low-income persons under the federal Food Stamp Act of 1964, as amended, are exempt from sales taxes levied and collected by a city of any class, whether home rule or otherwise.

Unification proposed from John Asplund

Mr. Asplund's specific proposal, in regard to the Greater Anchorage Area Borough, is the unification of governments within Service Area 23 by an election mandated by a legislative resolution. The voters will chose between a first class home rule charter or a second class borough form of government. The remainder of the borough outside Service Area 23 would vote and be tallied separately on its inclusion or exclusion and the type of government desired.

The draft bills would allow organized boroughs and cities contiguous to or within the borough to unify. Unification would be proposed by identical resolutions from the borough assembly and all city councils within the proposed unified area. The resolution would include proposed boundaries, form or forms of government to be placed on the ballot, and the method of distribution of assets and liabilities.

The Local Government Committees of the Legislature would review these resolutions and ascertain whether the unified area met the criteria of Article X, Section 3 of the Constitution. The respective committees would prepare a joint resolution including the requirements of the original resolutions and the form and wording of the ballot to be presented to the affected voters. Within 90 days of passage of the joint resolution, the state shall submit the question(s). The vote shall be tabulated without regard to municipal boundaries. The form of government receiving the majority of votes shall be the new government.

Transitional requirements provide that if an existing form of government is chosen, that government shall be expanded within one year to the new boundaries. Any new form of government will be governed by the state statutes regarding boroughs and cities. Within two years, the new government shall revise, repeal or reaffirm all local government laws in effect at the time of unification. Existing laws will remain in force until superseded.

The right to state and federal funds shall remain intact under unification.

A unified government under this chapter shall have all power granted boroughs and first class cities not prohibited by law or charter.

Submitted by Legal Department
Date submitted _____
Date revised _____
Date resubmitted _____
Date of public hearing _____
Effective date _____

GREATER ANCHORAGE AREA BOROUGH, ALASKA

RESOLUTION NO. 37-72

A RESOLUTION PROPOSING LEGISLATIVE ACTION FOR UNIFICATION

WHEREAS it appears that the best solution to the local governmental problems in the Greater Anchorage Area is some form of unification, and

WHEREAS it appears reasonable for the legislature to provide an alternative approach to the Charter Commission route to unification;

NOW THEREFORE the Greater Anchorage Area Borough Assembly hereby resolves that legislation necessary to carry out the intent of Assembly Memorandum No.72-112 be sent to the legislature for its consideration.

PASSED AND APPROVED BY THE ASSEMBLY OF THE GREATER ANCHORAGE AREA BOROUGH this ___ day of _____, 1972.

_____
Presiding Officer

ATTEST:

_____
Borough Clerk

APPROVED this ____ day of _____, 1972.

_____
Borough Chairman

Alt. A

86

Introduced:

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: Unification of areas within an organized Borough.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA

Section 1. AS 29.85 is amended by adding a new section .210 to read as follows:

AS 29.85.210 If the legislature receives identical resolutions from a borough assembly and city council of a city of the first class within that borough requesting an adjustment to borough boundaries and an election on a new unified form of government, the legislature may set an election on the question(s) as presented in the resolution, and if election results require, adjust boundaries.

Section 2. This act takes effect

AH 12

87

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act Entitled: "Unification of Areas Within Organized Boroughs."

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

CHAPTER 86. UNIFICATION OF AREAS WITHIN ORGANIZED BOROUGHS.

Sec. 29.86.010. _____ authorized. Areas within organized boroughs and cities contiguous thereto or included therein may unite to form a single unit of government by complying with this chapter.

Sec. 29.86.020. Unification to be proposed by resolution. Unification shall be proposed by identical resolutions adopted by the borough assembly and the councils of all cities located within the proposed unified area.

Sec. 29.86.030. The resolution shall include:

1. The proposed boundaries of the new government.

2. The form or forms of government present in the election prescribed in § 050 of this chapter.

3. A method of distribution of assets and liabilities.

Sec. 29.86.040. Review of Resolutions.

a. Resolutions for unification prescribed by Sec. 29.86.030 of this chapter will be reviewed by the Local Government Committees of both houses of the legislature.

b. The Local Government Committees will ascertain if the proposed unified area meets the criteria of Article X, Sec. 3 of the Constitution of the State of Alaska.

Sec. 29.86.050. Legislative Action.

a. After the review as required under Sec. 29.86.040 of this chapter, the respective Local Government Committees will prepare a joint resolution to be presented to both houses of the legislature setting forth:

a. The proposed boundaries of the unified government.

b. The form or forms of government which will be subject to election in the proposed unified area.

c. The method of distribution of assets and liabilities of the governments being unified.

d. The form of the ballot with the exact wording to be contained thereon. After passage of a valid resolution for unification the State of Alaska shall submit to the voters of the affected area, the questions of whether that portion of the organized borough and all cities within such area as designated by the resolution shall unite to form a single unit of government and the form of government to establish the form of government available for selection shall be only those forms as set out in the resolutions as described in Sec. 29.86.020 of this chapter.

b. The vote shall be held within 90 days after passage of the joint resolution as set forth in § 29.86.040 of this chapter.

c. The ballots on the question of unification and form of government shall be designated in the resolution as passed by both houses of the legislature.

Sec. 29.86.060. Requirements for approval of unification.

(a) The vote shall be tabulated without regard to local municipal boundaries, except as provided on the resolution set out in Sec. 030 of this chapter if more than one form is proposed on the ballot, receiving the majority of the votes, shall be the form of government of the unified area.

Sec. 29.86.070. Transition.

(a) If the form of local government selected is that of an existing government, the laws of that government shall prevail and shall be expanded within one year to effect the new boundaries as required by law.

(b) If the form of government selected is not that of an existing local government within the boundaries of the unified area, then;

If the form is a borough, then the applicable laws in Title 7 and 29 of the Alaska Statutes shall apply;

If the form of government is that of a city, then the applicable statutes as a general law city of the class selected will govern until a charter is adopted pursuant to law.

Sec. 29.86.080. Assets and Liabilities. The assets and liabilities of the unified government created under this chapter shall be distributed as set out in the resolution under Sec. 030 of this chapter.

Sec. 29.86.090. Ordinances. Within two years after ratification of unification, the governing body of the unified municipality shall revise, repeal or reaffirm all borough and city ordinances, resolutions, and orders in force within the borough at the time of unification. Each ordinance, resolution, regulation or order in force at the time of unification shall remain in force until superseded by action of the new governing body.

Sec. 29.86.100. Right to State and Federal Funds Reserved. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to boroughs and cities shall remain in full force and effect with respect to a unified municipality organized under §§ 010-110 of this chapter.

Sec. 29.86.110. Powers of Unified Government. A municipality organized under §§ 010 - 100 of this chapter shall have all powers

(1) not prohibited it by law or charter;

(2) granted to organized boroughs and first class cities.

Effective date of bill is:_____

GREATER ANCHORAGE AREA BOROUGH

ASSEMBLY MEMORANDUM NO. 72-112

TO: BOROUGH ASSEMBLY

MARCH 6, 1972

FROM: BOROUGH CHAIRMAN

SUBJECT: UNIFICATION

After consultation with Mayor George Sullivan, the President and Executive Director of the Chamber of Commerce, it has become increasingly clear that a desirable and timely solution to the local governmental problems in the Greater Anchorage Area is some form of unification.

It is our consensus that unification can only prevail in the Anchorage urban area; therefore, we recommend that the Assembly adopt a resolution endorsing unification of the City and Borough governments in Service Area 23 under certain conditions. Further, we recommend that the State Legislature adopt a bill requiring an election in Service Area 23. In that election, the voters will be asked whether they want to unify Service Area 23 under a first class home rule charter such as the City of Anchorage or a second class borough form of government such as the Greater Anchorage Area Borough. The voters will have the opportunity to reject both propositions and thus defeat the entire concept of unification if they so desire.

We also recommend that the remainder of the Greater Anchorage Area Borough, not included in Service Area 23, vote separately as to its inclusion or exclusion from the new unified government if one is formed and, further, that the voters of this area vote as to the form of government they desire, i.e. first class home rule city charter or second class borough. The votes of other than Service Area 23 will be tallied separately and will not be included with the Service Area 23 votes.

If the voters approve the concept of unification as a first class home rule charter form of government, then, depending upon the outcome of the election by the remainder of the Borough, the boundaries of the new government would be adjusted to conform to the boundaries of the Service Area 23.

For this unification effort to be successful, amendment of the current statutes will be necessary. Two draft bills are attached for your consideration.

Respectfully submitted,

John M. Asplund
Borough Chairman

JMA:SG:lms
Attachments

Revised draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: add new sections to read:

* Sec. 6. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT. (a) The assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (b) of this section.

(c) An ordinance adopted under (a) of this section must to be effective be approved by a majority of borough voters voting on the question in all home rule and first class cities of the borough and

by a majority of borough voters voting on the question outside the home rule and first class cities of the borough. If, at the end of the time period prescribed in (b) of this section, no ordinance providing for assembly reapportionment has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are elected according to assembly composition and apportionment set forth in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

* Sec. 7. AS 29.23.040 is repealed and re-enacted to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs an election is held every two years at the time of the general election to choose assemblymen for two-year terms, unless provided otherwise by ordinance, and until their successors are elected and have qualified. The regular term begins on the first Monday following the regular borough election. The assembly may provide for different terms by ordinance, but they may not exceed four years. The current term of incumbent assemblymen may not be altered. This section applies to home rule and general law boroughs.

* Sec. 8. AS 29.23.050 is repealed and re-enacted to read:

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. If sections for the election of assemblymen have been established, an assemblyman elected from a district who becomes a resident of another district may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

* Sec. 9. AS 29.23.080 is repealed and re-enacted to read:

Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if sections for the election of assemblymen have been established, a resident of the section from which he will serve, to serve until the next regular election.

* Sec. 10. AS 29.23.030, 29.23.060(f), (g), (h), (i), (j) and AS 29.23.-090 - 29.23.100 are repealed.

* Sec. 11. Secs. 6 - 10 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 10 of this Act becomes effective, whichever occurs earlier.

First draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 110, line 28: delete "two propositions" and substitute "proposition"

Page 111, lines 1-17: delete all matter and substitute the following:

Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the _ _ _ _ _ _ _ _ Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?

Yes [ ] No [ ]

Page 113, lines 10-11: delete all matter after "question" and substitute the following: "specified in sec. 260(a) of this chapter. The vote shall be held"

Page 113, line 14: delete "of unification"

Page 113, line 15: delete "(1) and (2)"

Page 113, line 17: delete "of unification"

Page 113, line 22: delete "unification" and substitute "the question"

Page 113, lines 25-28: after "for" delete all matter and substitute the following: "the question to be approved, a majority vote in each classification is required.

(b) If the question of forming a charter commission to

prepare, adopt and submit a proposed unification charter to the voters is approved, those charter commission candi-"

Page 116, lines 4-6: after "law" delete "as determined by a plurality of the votes cast at the election held under sec. 320 of this chapter"

First Draft, 4/11/72

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A M E N D M E N T

TO: SCS CSHB 208 am S

BY THE FREE CONFERENCE COMMITTEE

Page 107: After line 29, add the following new matter:

(4) a provision requiring that the assembly of a home rule or general law borough submit the question of exclusion of particular territory from the borough to borough voters in the area sought to be excluded upon presentation to the assembly of a petition for the purpose signed by at least 15 per cent of borough voters residing within the area sought to be excluded and who voted in the last regular borough election held prior to presentation of the petition; exclusion under this paragraph which is approved by a majority of voters voting on the question shall take effect at the reasonable time and upon terms of transitional adjustments necessitated by the exclusion, including but not limited to adjustment of any existing bonded indebtedness and other obligations of the area excluded so as to preserve a fair and equitable burden of taxation, as the assembly or, upon its failure to act, the Local Affairs Agency, prescribes; assembly or Agency actions under this paragraph are subject to judicial review.

(DRAFTING NOTE: This draft is intended to reflect the substance of the proposal for exclusion discussed by the committee at its session of 4/6/72. The draft of the proposal relates largely to current law (The Annexation Act of 1957), which has not been retained in the proposed code. Thus, the redraft here is intended to reflect the substance of the proposal but in the context of Ch. 29.68 of the proposed code (p. 107). It should be noted in addition that there are constitutional aspects of the draft which it is recommended be researched further before final action is taken, should the concept of the proposal be approved initially.)

Revised draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 124, between lines 19 and 20: add the following new matter:

* Sec. 4. (a) Other provisions of this Act notwithstanding, the assembly of a first or second class borough which is an incorporated borough on the effective date of this Act shall submit to borough voters at the next regular borough election following the effective date of this Act the question:

"Shall the borough and all cities within it unite in the manner authorized by law to form a single unit of home rule government having the powers, duties and functions of a unified government?

Yes [ ] No [ ]"

(b) If a majority of borough voters voting on the question approve unification, the assembly shall provide for election of a charter commission at the next regular borough election, or at a special election called by the assembly. The commission shall be nominated and elected and shall prepare, adopt and submit to the voters a proposed unification charter, as otherwise provided in this Act. The provisions of this Act relating to unification otherwise govern unification under this section, except that if a charter, or part of a charter, submitted by the commission for voter approval is rejected,

(1) the commission may prepare, adopt and submit a proposed charter to election in portions only rather than as a proposed completed document, and

(2) the commission shall continue to function and submit revised charter provisions until such time as a charter may be ratified.

(c) Nothing in this section prevents initiation of unification proceedings by local option as otherwise provided in this Act at a time subsequent to defeat of unification in an election on the question set forth in (a) of this section.

Renumber subsequent sections accordingly.

First draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 7, between lines 17 and 18: insert the following new matter:

"(23) AS 29.58.315"

Renumber subsequent paragraphs accordingly

Page 100, between lines 3-4: insert the following new matter:

Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds.

Adopted 4-25-72

First Draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page ~~107, line 18:~~ after "for" ~~insert~~ "initiation of"

Page 107, line 29: add the following new matter:

(c) A boundary change effected under (a) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

First Draft, 4/11/72

A M E N D M E N T

TO: SCS CSHB 208 am S

BY THE FREE CONFERENCE COMMITTEE

Page 83, line 8: After "for" add "and is entitled to,"

Page 83, line 9: After "action." add the following new matter: "Either party to the appeal may demand a jury trial."

(DRAFTING NOTE: The proposed amendment incorporates the provisions of SB 159 which are not already covered in the proposed code.)

4/25

(First Draft, 4/11/72)

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 35, line 29: delete "one year" and substitute "30 days"

Page 124, line 4: delete "one year" and substitute "30 days"

MEMORANDUM

State of Alaska
OFFICE OF THE GOVERNOR

TO: Representative Mike Miller
Free Conference Committee
Alaska State Legislature

THRU: Byron I. Mallott
Director
Local Affairs Agency

FROM: S. Robert Dozier
State Assessor

DATE : April 11, 1972

SUBJECT: SCS CS for HB 208
now before the Free Conference
Committee.

The following are four suggested Technical Amendments and Clarification of:
Chapter 53 - Municipal Assessment and Taxation.
Article I - Borough Property Tax.

1. AS 29.53.040 - Mobel Homes.

   Page 79, line 6: Strike [are] and add may be.

   The word "are" demands classification to be real property. May be permits the use of either real or personal property classification.

2. Section 29.53.060 - Full and True Value.

   (a) The assessor of a municipality shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and sections 30,35 and 160 of this chapter. Full and true value is the estimated [amount] price which the property would bring [on] in an open market and under the then prevailing market conditions in a sale [on normal payment terms] between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

3. AS 29.53.120 - (b) Corrections.

   Page 82, line 3: After the word "notice" add a period . and strike all subsequent wording on lines 3 and 4.

   It is presumed that no changes will be made by the assessor without giving reasonable notice prior to the sitting of the Board of Equalization.

4. AS 29.53.140 - Hearing.

   Page 83, line 3: After the word "filed" strike [or] and add and.

   It is presumed that the Board of Equalization may not make valuation adjustments unless proved by a valid written appeal timely filed with the assessor.

PERSONAL OBSERVATIONS AND SUGGESTED AMENDMENTS

1. Section 29.53.025 - Optional Exemptions and Exclusions.

   Page 76, line 25: Strike "$5" and insert "$25".
   Line 26: Strike "$15" and insert "$75".

The tonage tax rate as indicated in this section is obsolete as it was established in 1947. Many home rules municipality which for various reasons have been unable to change from the tonage basis of taxation to the full value assessment concept have abandoned this source of revenue because the tonage rates as authorized by statute do not cover the cost of administration.

2. Section 29.53.030 - Mining Claims.

   Page 77, line 29: Strike "$200" and insert "$1,000".

The assessed value figure of $200 as indicated in this section is obsolete as it was established in 1947. This section was eliminated from Title 14 by an amendment in 1966 which revised a considerable amount of legislation concerning the old independent school districts.

It is obvious that the assessed value of $200 established in the section will not fund the cost to any municipality for the research and listing of unpatented mining claims.

SRD/pls

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 36, line 22: after "election" insert "or the difference between the winning and a losing vote on the result contested is ~~less~~ more than two per cent"

(DRAFTING NOTE: A prior amendment adopted in SCS CSHB 208 am S at page 36, line 22, converts the term "reverses" on the line to "fails to reverse".)

4/25

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 24, line 20: delete "presiding" and substitute "shall designate an assemblyman to act during his term"

Page 24, line 21: delete "officer shall"

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 56, line 25: after "question" insert "in the borough area outside cities"

A M E N D M E N T

TO: SCS CSHB 208 am S , BY THE FREE CONFERENCE COMMITTEE

Page 110, line 20: delete all matter and substitute: "Formation of a charter commission to propose a unification charter shall be proposed by resolution of the assembly or by petition." add. see below

Page 110, line 22: delete "for"

Page 110, line 23: delete "unification"

Page 110, line 27: delete "UNIFICATION" and substitute "ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER"

Page 112, line 2: delete "for unification"

Page 112, line 9: delete "for unification"

Page 112, line 10: after "chapter," insert "or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter"

Page 113, line 9: delete "for unification" and substitute "or adoption of an assembly resolution for the purpose"

Page 113, line 13: after "petition" insert "or adoption of the resolution"

: An assembly Resolution for the purpose may be adopted not more often than once every twelve months"

AFF 4/25

Revised draft, 4/18/72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 125, line 28: Add new sections to read:

* Sec. 6. AS 29.18.120(b) is amended to read:

(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and resident address of 10 voters in the area of the proposed city. [PETITIONS TO NOMINATE BOROUGH ASSEMBLYMEN MUST INCLUDE THE SIGNATURE AND RESIDENT ADDRESS OF 50 VOTERS WHO ARE RESIDENTS OF THE PROPOSED BOROUGH IN THE AREA OUTSIDE HOME RULE AND FIRST CLASS CITIES.] Petitions to nominate <u>elected</u> [OTHER] municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality<u>, or that area of the proposed municipality from which the officers are to be elected under the composition and apportionment set out in the accepted incorporation petition</u>.

* Sec. 7. AS 29.18.120(d) is amended to read:

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough

assembly members representing home rule or first class cities [ARE] appointed by the city council [AND] serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

* Sec. 8. AS 29.23.020 is repealed and re-enacted to read:

Sec. 29.23.020. COMPOSITION, APPORTIONMENT, AND REAPPORTIONMENT. (a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. ~~However, except as required in (b) and (d) of this section, assembly composition and apportionment in effect on the effective date of this section may be altered only once at the option of the assembly.~~

(b) Within six months of the effective date of this section, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b)(3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval in each classification. If, at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Local Affairs Agency shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards.

Reapportionment under this section shall be implemented by ordinance or by act of the Local Affairs Agency in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Local Affairs Agency determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs.

* Sec. 9. AS 29.23.040 is repealed and re-enacted to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected for ~~two~~ three-year terms and until their successors are selected and qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs.

* Sec. 10. AS 29.23.050 is repealed and re-enacted to read:

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years. This section applies to home rule and general law boroughs.

* Sec. 11. AS 29.23.080 is repealed and re-enacted to read:

Sec. 29.23.080. ASSEMBLY VACANCIES. The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs. A vacancy is filled by the majority of the remaining assemblymen, who designate a voter and, if the assembly seat vacated is other than an at-large seat, a resident of the borough area to which the seat was apportioned, to serve until the next regular election. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, a vacancy in a councilman's seat on the assembly shall be filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

* Sec. 12. AS 29.23.030, 29.23.060(f), (g), (h), (i), (j) and AS 29.23.090 - 29.23.100 are repealed.

Sec. 13. Secs. 6 - 12 of this Act take effect upon the condition and at the time that the Supreme Court of the State of Alaska finds that sec. 4, art. X of the Constitution of the State of Alaska as it relates to representation of cities on borough assemblies is in violation of the Constitution of the United States or an amendment to the Constitution of the State of Alaska relating to assembly representation and consistent with the provisions of secs. 6 - 12 of this Act becomes effective, whichever occurs earlier.

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 64, line 3: after "powers" insert ", except as those code powers relate to flood control,"

Revised Draft, 4/27/72

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A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 35, line 28: after "who" insert "is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."

Page 124, line 4: after "who" insert "is qualified to vote in state elections and"

Page 124, line 5: delete "of Alaska for one year and"

Page 124, line 7: delete "or meets registration requirements of the municipality"

Page 124, line 8: delete "if any"

Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

adopted
~~signature~~ 4-27

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 54, line 9, after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12 insert the following new matter:

However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers.

Page 63, line 29: after "cities." insert the following new matter:

However, as to powers conferred under (a)(5) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers.

adopted with corrections: 4.27.72
Drag will draft new amendment w/ corrections.

First Draft, 4/27/72

A 120 4/27

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A ~~political subdivision~~ municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a political subdivision municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the ~~political subdivision~~ municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuanc of the notes.

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Sec. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a ~~political subdivision~~ municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the ~~political subdivision~~ municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the ~~political subdivision~~ municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the ~~political subdivision~~ municipality issuing them.

Page 94, line 29: delete "29.58.040" and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

First Draft, 4/27/72

A M E N D M E N T

TO: SCS CSHB 208 am S

BY THE FREE CONFERENCE COMMITTEE

Page 36, line 7: After "ELECTIONS." add the following new matter:

If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election.

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 17, line 7: Before "first" insert "home rule or"

Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"

Page 15, line 4: Delete "Act"

adopted 5-2-72

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."

Page 22, line 26: After "chairman" insert "or mayor"

Page 22, line 27: After "chairman's" insert "or borough mayor's"

Page 23, line 8: After "is" insert "an elected borough mayor but no"

Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"

Page 23, line 16: Delete "executive" and substitute "chairman or mayor"

Page 24, line 25: After "chairman" insert "or borough mayor"

Page 25, between lines 9 and 10: Insert the following new matter:
"(c) The borough mayor has no veto power."

Page 25, line 11: After "chairman" insert "or borough mayor"

A M E N D M E N T S

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 63, between lines 21 and 22: Insert the following new matter:

"(18) air pollution control as provided in AS 18.30"

Renumber following paragraph.

Page 63, line 29: after "cities." insert the following new matter:

"However, as to powers conferred under (a)(5)(17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

A M E N D M E N T

TO: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12: insert the following new matter:

"However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

(DRAFTING NOTE: The following provision is recommended as an alternative to the provision set forth in the last two sentences of the above amendment: "Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

AMENDMENT

O: SCS CSHB 208 am S BY THE FREE CONFERENCE COMMITTEE

Page 75, between lines 27 and 28, insert the following new matter:

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section.

Page 76, between lines 17 and 18, insert the following new matter:

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall

decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects the same or similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting the same or similar exemptions by ordinance as provided in sec. 25 of this chapter. However, a taxpayer qualifying for an exemption under (e) of this section and electing the same or similar exemption for the same tax year under local ordinance is thereby ineligible for the exemption under this section for that tax year.

Technical changes have been made on the following amendments, as approved May 2, 1972:

Page 19, line 1: After "pleasure" insert ", except that in manager plan boroughs the borough mayor serves as presiding officer"

Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The borough administrative power is vested in an elected chairman or appointed manager, and the executive power in an elected chairman or, in a manager plan borough, an elected borough mayor who has the same functions as the mayor of a manager plan city under sec. 240 of this chapter."

Technical changes made after May 2, 1972, meeting and approved by Rep. Miller and Sen. Miller:

Page 76, between lines 17 and 18, insert the following new matter after subsection (g):

"(h) Nothing in (e)-(i) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under (e)-(i) of this section only the amount of revenues lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state."

"(i) In (e)-(i) of this section, the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes

(Substitute for (h) as adopted May 2, 1972, p. 93 of book)

The following amendments are in regards to election dates, intervals, and terms of councilmen, assemblymen, mayors and chairmen:

Page 7, lines 28: After ".020" insert "(b)"

Page 17, line 28: Delete "every two years at the time of the general election" and substitute "annually on the first Tuesday of October, unless a different date or interval of election is provided by ordinance,"

Page 17, line 29: Delete "two" and substitute "three"

Page 18, line 1: Delete ", unless provided otherwise by ordinance"

Page 22, line 27: Delete "two" and substitute "three"

Page 22, line 29: Delete "Tuesday after the first Monday" and substitue "first Tuesday of October, unless a different date of election is provided by ordinance"

Page 23, line 1: Delete "in November"

Page 25, lines 28-29: Delete "every year on the Tuesday after the first Monday in November" and substitute "annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance,"

Page 25, line 29: Delete "two" and substitute "three"

Page 27, lines 12-13: Delete "Tuesday after the first Monday in November" and substitute "first Tuesday of October, unless a different date of election is provided by ordinance"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance,"

Page 29, line 20: Delete "Members" and substitute "As determined by ordinance, members"

Page 29, line 21: Delete "as" and substitute "or"

Page 29, lines 22-23: Delete "municipal election on the Tuesday following the first Monday in November" and substitute "election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance"

Page 27, line 24: Delete "elected" and substitute "selected".

Page 35, line 22: Delete "in home rule and general law municipalities"

Page 35, line 23: Delete "Tuesday after the first Monday in November every even-numbered year" and substitute "first Tuesday of October annually"

Page 35, line 24: After "or" insert "on a date of election or"

Page 123, lines 24-25: Delete "Tuesday following the first Monday in November of even-numbered years, or" and substitute "the first Tuesday of October annually, or on an election date or"

Page 124, lines 14-19: After "title." delete all matter.

The following amendment is in regard to delegations of powers by board of equalization:

Page 82, lines 22-25: Delete all matter through"members." on line 25 and substitute the following:

"Sec. 29.53.135. BOARD OF EQUALIZATION. The assembly sits a a board of equalization for the purpose of hearing any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of at least that number of members of the assembly over and above the number required for a quorum to transact business. The board is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings as may be adopted by ordinance, including but not limited to quorum and voting requirements."

(Substitute prior amendment, minutes of March 23, 1972, p. 2, amendment shown at page 82 of notebook)

The following amendment is in regard to selection of acting borough mayor in borough mayor's absence:

Page 24, lines 20-21: Delete "The assembly presiding officer shall" and substitute "The borough chairman or mayor, subject to assembly approval, shall designate a person to"

The following amendments are re. delegations of power by planning commissions, platting board, and board of adjustment:

Page 53, line 29: Delete "HEARING OFFICER" and substitute "DELEGATIONS."

Page 54, lines 2-5: Delete all matter and substitute the following: "of adjustment to delegate powers to hear and decide cases under this chapter in a manner authorized by the ordinance, including but not limited to delegations to one or more members of the commission or board, to other boards or commissions, or to a hearing officer designated by the commission or board. The assembly shall prescribe procedures for hearings and appeals. The commission or board shall hear and decide appeals de novo."

Page 48, lines 17-19: Delete ", but it may delegate by resolution or ordinance part or all of its functions to other borough boards"

Page 48, line 21: After "borough" insert ", subject to sec. 70(b)(1) of this chapter, in addition to making delegations as provided for an assembly under sec. 245 of this chapter."

Technical amendments:

Page 43, line 17: Before "once" insert "conferred in, or assumed by means of secs. 250-290, of this chapter."

Page 61- between lines 11 & 12: In the last sentence of the amendment adopted May 2, 1972 by the Free Conference Committee, delete "or not area-wide" and after "powers" insert "exclusively by the borough area-wide"

Page 13, lines 10-11: after"15.60)." delete all matter and substitute the following: "The state shall pay all election costs under (a)-(c) of this section."

Page 63, line 29: In the first sentence of the new matter (amendment adopted May 2, 1972) after "or" insert "as to (a)(5) and (17),"

Page 23, line 17: delete "mayor" and substitute "manager"

Page 30, line 12: delete "executive" and substitute "administrator"

Page 30, line 14: delete "executive" and substitute "administrator"

(Technical amendments substituting "borough mayor" for "borough chairman" and related amendments.)

Page 12, line 26: strike "chairman" and substitute "borough mayor"

Page 20, line 21: strike "chairman" and substitute "borough mayor"

Page 22, line 22: after "EXECUTIVE" insert "ANDADMINISTRATOR"

Page 22, lines 23-25: after "(a)" strike all matter and substitute the following: "If the borough has not adopted a manager plan, the borough executive and administrative power is vested in an elected borough mayor. If the borough has adopted a manager plan, the administrative power is vested in an appointed manager and the executive power in an elected borough mayor who has the same functions as those of the mayor of a manager plan city under sec. 240 of this chapter."

Page 22, line 26: strike "chairman" and substitute "borough mayor"

Page 22, line 27: strike "chairman's" and substitute "borough mayor's"

Page 23, line 3: strike "chairman" and substitute "borough mayor"

Page 23, line 5: strike "chairman" and substitute "borough mayor"

Page 23, line 8: strike "chairman" and substitute "borough mayor"

Page 23, line 9: strike "chairman" and substitute "borough mayor"

Page 23, line 14: strike "executive" and substitute "borough mayor or manager as the case may be"

Page 24, line 21: strike "chairman" and substitute "borough mayor" and strike "chairman's" and substitute "borough mayor's"

Page 24, line 25: strike "chairman" and substitute "borough mayor"

Page 24, line 29: strike "chairman" and substitute "borough mayor"

Page 25, line 7: strike "chairman" and substitute "borough mayor"

Page 25, line 11: strike "chairman" and substitute "borough mayor"

Page 125, line 28: in the new matter where "chairman" appears substitute "administrator". After "executive" add "or administrator".

Page 55, line 3: strike "chairman" and substitute "borough mayor"

Page 57, line 1: strike "chairman" and substitute "borough mayor"

Page 69, line 4: strike "municipal executive' and substitute "chief administrator"

Page 115, line 18: after "executive" insert "and administrator"

Page 26, line 23: after "EXECUTIVE" insert "AND ADMINISTRATOR"

Page 26, line 24: after "mayor" insert "as executive"

Page 32, line 26: after "executive" insert "and chief administrator"

Page 23, lines 8-12: after "chairman" delete all matter and substitute the following: "as chief administrative officer. If the manager plan is adopted, it becomes effective following certification of the results of the first regular election occurring at least six months after adoption of the plan. The borough mayor then serves as borough executive."

Page 69, line 4: after "executive" insert "or chief administrator"

Page 1, line 27: after "corporation" insert "and political subdivision"

Page 2, line 2: after "corporation" insert "and political subdivision"

Page 29, line 12: after "years" insert "and not altering the current term of an incumbent"

Page 29, line 26: after "years" insert "and not altering the current term of an elected incumbent"

Page 124, line 23: after "years" insert ", and not altering the current term of an incumbent,"

(Technical amendment relating to transition to code)

Add as last section of bill, or otherwise where appropriate, the following: "The terms of elected officials who are incumbents in office on the effective date of this Act are not affected by this Act. Their terms expire as provided before enactment of this title."

(Technical amendment relating to integration of Chapter 40 SLA 1972 into code -- involvement of young people in local government.)

In Chapter 40 SLA 1972, the term "municipal appointing authority for municipal boards or commisssions" is substituted for the term "assembly" as it appears in subsection (a) of the last section of the chapter, in order to preserve the intended meaning of the section indicated by a reading of subsections (a) and (c) of the last section of the chapter.

(Technical amendments relating to integration of CSSB 405 (Resources)-- enabling legislation for development cities into code.)

At this time (May 17, 1972) CSSB 405 (Resources), the general enabling legislation for development cities has been adopted in both Houses. Since the enabling legislation amends the existing title 29 of the Alaska statutes and that title intent is repealed and reenacted by the code, it is suggested that the provisions of CSSB 405 (Resources) be included in the code. Additional pages for conclusion of the code have been prepared for this purpose. Except for renumbering and a few technical revisions as follows, the provisions are identical to those adopted by the legislature.

At Sec. 29.18.250 (b) (as the provisions are numbered in the code) the citation to sec. 330 is made to correct an apparent erroneous citation in the bill to the previous sec. 320 (sec. 75 of CSSB 405 (Resources)).

At Sec. 29.18.370, the term "executive and administrative" is inserted before the term "city officials" in the last sentence in order to make clear the apparently intended meaning.

At Sec. 29.18.450, the last sentence is added, i.e. "provisions of this chapter prevail over other provision of the title which are inconsistent" to make clear the presumable intent of that section.

With respect to CSSB 406 am, the special act incorporating the development city of Lost River, its provisions do not amend title 29 and it is accordingly thought not necessary to include in the code. If signed into law, the act will appear in the temporary and special acts binder of the Alaska statute. Unless the committee decides otherwise, it will not be included in the additional pages of the code as represented by the conference bill.

(Technical amendment relating to integration of Chapter 41, SLA 1972 into the code -- transition from five man to seven man school boards.)

Chapter 41, SLA 1972, recently signed by the Governor, amends a provision of law amended in the code (page 129 of the proposed conference bill).

It is recommended that the provisions of Chapter 41, SLA 1972 be substituted for the provisions of AS 14.12.050 (b), with the following additions: before "the length" insert ", as three year terms are provided,". The additional term would conform the provision of Chapter 41, SLA 1972 with the code provisions of AS 14.12.050(a) authorizing two year school board terms. If the intent of Chapter 41, SLA 1972, is to require three year terms, then the committee may wish to consider deleting optional authority for a local body to provide two year terms by ordinance.

(Incorporation of HB 423 am, Chapter 40 SLA 1972 in code)

Page 137, line 14: add the following new matter:
*Sec. 17 AS 29.23 is amended by adding new section to read:

Sec. 29.23.395. PURPOSE. It is the intent of secs. 395-401 of this chapter to provide an opportunity for the young people of Alaska to become involved in the institutions and processes of local government comparable to that embodied in legislation under consideration at the First Session of the Seventh Legislature providing for participation in the executive branch of state government.

Sec. 29.23.397. COMMISSION.

(a) The governing body of a municipality may by ordinance establish a commission on the involvement of young people in local government.

(b) The commission may consist of not more than nine members, drawn from fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17 - 22 age group, and shall include women and representatives of minority groups. The members shall be appointed by the governing body in the manner prescribed by ordinance without regard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the governing body as chairman of the commission.

(c) Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by ordinance.

(d) The commission shall establish procedures to enable it to recommend annually to the governing body a group of promising young men and women from whom the governing body may select interns and youth voting members of municipal boards and commissions. The commission, in establishing these procedures, shall enlist the aid of municipal residents who are actively interested in working with young people. Following adoption of the procedures, the commission shall accept applications from persons and nominations for consideration, and shall interview all applicants or nominees.

(e) Recommendations of the commission shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(f) Annually, the commission shall evaluate the program and shall submit a written report to the governing body.

Sec. 29.23.399. INTERNS. An intern may be appointed to serve on the staff of the governing body or the municipal administration for a period of time prescribed by the governing body, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the municipality. Service will begin at a time prescribed by the governing body. Interns shall be appointed without regard to political affiliation. Salaries shall be individually established by the governing body on the basis of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 29.23.401. APPOINTMENT TO MUNICIPAL BOARDS AND COMMISSIONS.
(a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the municipal appointing authority for a municipal board or commission may appoint a 17 - 21 year old municipal resident to the board or commission if recommended by the commission, established in sec. 397 of this chapter.

(b) A young person recommended by the commission may be appointed to a municipal board or commission having special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a municipal board or commission under this section is entitledto the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the governing body when required by law.

(d) No additional seat on a municipal board or commission is created by virtue of secs. 395 - 401 of this chapter.

LAWS OF ALASKA

1972

Source: HB 709

Chapter No.: 41

AN ACT

Relating to the terms of office of members of school boards.

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

* Section 1. AS 14.12.050(b) is repealed and re-enacted to read:

(b) When a transition is made from a five-man school board to a seven-man school board, the length of the terms of office for the two new members to be elected shall be determined by lot so that when the terms of office for the two new members are assigned, the terms of office for the entire seven-man board shall be as follows: three members have a three-year term, two members have a two-year term, and two members have a one-year term. A seven-man school board, the terms of office of whose members at the time of transition from a five-man board did not result in terms expiring in the manner provided in this section, may, by resolution adopted by a majority of the members of the board, adjust the terms of office to conform to the schedule for expiration of terms of office provided in this section.

Approved by governor: May 5, 1972
Actual effective date: August 3, 1972

TECHNICAL AMENDMENTS
SUGGESTED FOR INCLUSION IN FCCS SCS CSHB 208

Page 1, line 11: Delete "AS 40.15.070"

Page 49, lines 10 - 19: After "CASES." delete all matter and substitute the following:

(a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of this chapter and if it is not made for the purpose of, or in connection with, a present or projected subdivision development and that no dedication of a street, alley, thoroughfare, park or other public area is involved or required.

Page 127, line 13: Delete ", second, or third" and substitute "or second"

Page 129, lines 6 - 28: Delete all matter and substitute the following [leaving excess space blank if necessary]:

* Sec. 4. AS 40.15 is amended by adding a new section to read:

Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVISIONS. All subdivisions of land made by the state, its agencies, instrumentaliti

and political subdivisions are subject to the provisions of this chapter and AS 29.33.150 - 29.33.240 and shall comply with local regulations adopted under this chapter and AS 29.33.150 - 29.33.240 in the same manner and to the same extent as subdivisions made by other landowners.

* Sec. 5. AS 29.33.240 is amended by adding a new subsection to read:

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate such streets, alleys, crossings, sidewalks or other public ways as may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in AS 40.15.180 but remains in the city.

[RENUMBER FOLLOWING SECTIONS.]

Page 130, lines 14 - 25: Delete all matter and substitute the following:

* Sec. . AS 40.15.075 is amended to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD CLASS BOROUGHS. The division of lands is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.33.210 - 29.33.240 [SECS. 150 - 180 OF THIS CHAPTER]. Costs of publication and mailing as well as other costs authorized in AS 29.33.210 [SEC. 150 OF THIS CHAPTER] shall be paid to the division

by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division of lands.

IN THE HOUSE BY BANFIELD, DITMAN AND M. MILLER

HOUSE BILL NO. 41

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to preference rights of local governments for tidelands acquisition."

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

* Section 1. AS 38.05.320(b) is amended to read:

(b) Unified municipalities organized under AS 29.85, home [HOME] rule cities and cities of the first class incorporated on or before January 1, 1971 [APRIL 1, 1964,] may apply, in the manner prescribed by the director, and in accordance with such regulations as the director may adopt, for a conveyance to them of all lands seaward of the home rule cities and cities of the first class which are between the mean high tide line in, or forming the boundary of, the home rule cities and cities of the first class, and a line to be shown on a plat made a part of the application which shall be the pierhead line established under the Act of September 7, 1957, or the harbor line established under the Act of March 3, 1899, or if no pierhead line or harbor line is established then a line subject to approval by the director, with the concurrence of the commissioner, which shall be seaward of all tidelands and submerged lands occupied or suitable for occupation and development without unreasonable interference with navigation. The director shall convey these tide and submerged lands to home rule cities and cities of the first class. Applications by preference right claimants filed with the director before June 30, 1964, shall continue to be processed to a final determination and conveyance, if any, by the director, if such preference right claimants are entitled to a

conveyance from the director under the laws existing previous to July 22, 1964.

(1) Each home rule city and city of the first class granted a conveyance shall prepare an official subdivision plat of the area conveyed showing all structures and improvements and the boundaries of each tract occupied or developed, together with the name of the owner or claimant. The subdivisional plat shall include within the boundaries of each tract occupied or developed such surrounding tide and submerged lands as are reasonably necessary in the opinion of the governing body of the home rule cities and cities of the first class for the use and enjoyment of the structures and improvements by the owner or claimant, but shall not include tide or submerged lands which if granted to the occupant would unjustly deprive an occupant of adjoining lands from his reasonable use and enjoyment of them.

(2) An occupant of land included in the conveyance to home rule cities and cities of the first class, who occupied or developed the land on and before September 7, 1957, has a class I preference right to the lands from the home rule cities and cities of the first class upon the execution of a waiver to the state and the home rule cities and cities of the first class of all rights the occupant may have acquired under Public Law 85-303 (71 Stat. 623).

(3) An occupant of land included in the conveyance to home rule cities and cities of the first class, who has a class II preference right by reason of the conveyance to home rule cities and cities of the first class, and is unwilling to waive the right has a preference right to the lands which it is mandatory for the home rule cities and cities of the first class to expeditiously honor upon application from the occupant after the Secretary of the Army has submitted to the Secretary of the Interior and the governor of the state maps showing

the pierhead line established by the corps of engineers with respect to the tract so granted.

(4) An occupant of land included in the conveyance to home rule cities and cities of the first class, who occupied or developed the land after September 7, 1957, and before January 3, 1959, and who continued to occupy it on January 3, 1959, has a class III preference right to the lands from the home rule cities and cities of the first class.

(5) In making a conveyance to an occupant, the home rule cities and cities of the first class shall include as a part of the tract conveyed and in addition to the occupied or developed lands, such additional tide and submerged lands as are reasonably necessary in the opinion of the governing body of the home rule cities and cities of the first class for the occupant's use and enjoyment of the occupied or developed land, but the conveyance shall not include any area which would unjustly deprive an occupant of adjoining lands from reasonable use and enjoyment of those lands or which, if developed, will interfere with navigation.

(6) Each home rule city and city of the first class receiving conveyances shall by ordinance provide for reasonable regulations governing the filing and processing of applications, publication of notices, and the adjudication of disputes between claimants by the governing body of the home rule cities and cities of the first class. A party aggrieved by its determination may appeal to the superior court.

(7) When no preference right has been granted to purchase or lease tidelands, the home rule cities and cities of the first class may sell or lease the tidelands conveyed to them, and may impose terms or conditions for the sale or lease. Such terms and conditions shall

include such reservation of rights-of-way as are necessary to provide reasonable access to public waters.

Introduced: 1/19/71
Referred: Local Government,
State Affairs and Finance

IN THE HOUSE BY WHITTAKER

HOUSE BILL NO. 81

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for the establishment of a Department of Regional and Community Affairs and making certain provisions for local government within boroughs; and providing for an effective date."

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

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 48. DEPARTMENT OF REGIONAL AND COMMUNITY AFFAIRS.

Sec. 44.48.010. POLICY. The legislature declares that it is the policy of the state to promote the general welfare and security of the people by insuring the maximum extent of self government at the local and regional level, in accordance with the mandate of Art. X of the state constitution. In recognition of the need for economic stability and adequate governmental forms in carrying out this purpose, it is further declared to be the policy of the state to provide for the fair sharing of the capital and natural resources of the state among all local and regional governments for the benefit of all the people of the state, who are the real owners of state resources. To carry out this policy, the legislature finds that establishment of an executive department is necessary and desirable to provide technical and financial assistance to regional and local government, to assist the governor in achieving maximum coordination of the various state and federal programs available to such units of government, to encourage the solution of problems at the lowest practicable level of government and to provide

for the study and consideration at the state level of the needs and interests of the communities of this state and the people who live and work in them.

Sec. 44.48.020. DEPARTMENT OF REGIONAL AND COMMUNITY AFFAIRS. The principal executive officer of the Department of Regional and Community Affairs is the commissioner of regional and community affairs.

Sec. 44.48.030. POWERS AND DUTIES OF DEPARTMENT. The department shall exercise the powers, duties and functions of agencies transferred to the department under sec. 2 of this Act and otherwise conferred in this chapter. The department shall in addition seek to treat and resolve problems arising in urban areas which result from migration of rural persons to urban areas.

Sec. 44.48.040. ADMINISTRATIVE UNITS. The commissioner may, with the approval of the governor, establish divisions or other administrative units in accordance with AS 44.17.020. However, to the extent consistent with sound administrative practice, he shall preserve the identity and staff of agencies transferred to the department under sec. 2 of this Act.

Sec. 44.48.050. REGIONAL UNORGANIZED BOROUGHS. (a) The commissioner shall, with the assistance of the agencies transferred to the department under sec. 2 of this Act, draw tentative boundaries dividing all areas of the state which are not within the boundaries of an organized borough into proposed regional unorganized boroughs. The commissioner shall employ, for the purposes of further assisting in drawing the tentative boundaries, specialists or experts in education, health, economics, law, public finance, welfare, housing, communications, planning, transportation, poverty problems, and public and municipal administration. The tentative boundaries shall be controlled by the standards and criteria set out in Art. X, Secs. 1 and 3, of the state

constitution. In addition, the commissioner shall consider the jurisdiction of existing Alaskan Native associations, economic units, regional boards and corporations, election districts, land claims settlement areas, and ethnic and fraternal groupings. The commissioner shall also give consideration to the desires and wishes of the residents of the proposed boroughs and hold public hearings in regions, communities, or areas which might be included within two or more proposed boroughs.

(b) Within 180 days following the effective date of this Act, the commissioner shall promulgate the tentative boundaries by order. He shall insure the widest possible publication of the boundaries through the use of public and private media, maps, and presentations and lectures by department staff. The boundaries, portrayed in detail through the use of maps and other documents, shall be transmitted to all newspapers of general circulation in the state, and to all existing village councils and local government units within the state.

(c) The boundaries proposed by the commissioner shall be final 90 days following the promulgation of the commissioner's order, except as otherwise provided in this subsection. Upon receipt, within 120 days of the date of the order, of a petition signed by 25 per cent of the registered voters residing within a tentative unorganized borough as delineated by the commissioner, he may hold a referendum open to all adult persons in the proposed borough for the purpose of determining the will of the residents within the proposed borough. He may frame the questions to be decided in the referendum and hold a referendum in one or more proposed borough areas, as will enable him to gauge the will of the residents. The commissioner shall abide by the results of a referendum unless the result would have been inconclusive, arbitrary, capricious, or inconsistent with the standards laid down in (a) of this section were he to have described the tentative boundaries himself

under (a) of this section.

Sec. 44.48.060. ELECTION. (a) At the first state general election following final determination of the boundaries of each regional unorganized borough, the following proposition shall be placed before the voters of the borough:

I. Shall the ..... Regional Borough establish a Regional Council consisting of ..... members to serve at staggered three-year terms for the purpose of supervising and coordinating the orderly development of this region?

II. If the above proposal is approved by a majority of those votes cast in the area, which of the following ..... candidates do you wish to serve on the Regional Council?

(b) If the proposal to establish a regional council is not approved in its first general election, it may be placed on the ballot at any subsequent general election upon the submission of a petition signed by 10 per cent of the number of residents who voted in the last election on the question. The petition shall read as follows:

We, the undersigned, qualified voters of the ..... Regional Borough do hereby petition that the following proposal be placed before the voters as provided by law:

(Proposition as in (a) of this section to be inserted)

(c) The number of councilors to serve in each borough shall be decided by the Rural Affairs Commission at least 90 days before the election, except that it shall be a number divisible by three.

(d) Candidates for seats on regional councils shall be qualified voters of the borough. They shall file declarations of candidacy with the commissioner at a time and in a manner prescribed by him. Their terms of office shall begin following certification of their election by the commissioner.

(e) Candidates first elected to regional councils under this section shall draw lots for terms of one, two and three years respectively. Candidates elected thereafter shall serve terms of three years.

(f) Subsequent elections for councilors under this section shall be held annually on a date prescribed by the commissioner.

(g) Vacancies on a council shall be filled for the unexpired term by a majority of the remaining councilors. Vacancies shall be declared if a councilor ceases to be a qualified voter of the borough or upon his death, resignation or recall from office as provided by law.

(h) The commissioner shall conduct elections under this section in substantially the manner prescribed for borough elections under AS 07.10.120(d). The department shall pay costs of the elections.

Sec. 44.48.070. FUNCTIONS OF REGIONAL COUNCIL. A regional council shall

(1) prepare, review and approve the budget of the regional unorganized borough; or review and approve the budget for the borough prepared for it by the department as provided in sec. 80(e) of this chapter;

(2) coordinate federal and state activities with regional and local programs;

(3) review and approve all state agency plans which affect the development and welfare of the borough;

(4) prepare and submit to the department the priorities and needs of the communities and people living in the borough;

(5) employ and compensate necessary staff;

(6) have powers conferred under AS 07.05.020;

(7) have zoning authority for the purpose of AS 07.05.040.

Sec. 44.48.080. REGIONAL AND COMMUNITY AFFAIRS FUND. (a) There is in the department a regional and community affairs fund consisting

of funds dedicated under this chapter.

(b) There is hereby dedicated to the fund for each fiscal year 40 per cent of all state revenues received during each fiscal year from the sale, lease, or other disposition of a natural resource or asset, except that no receipts from any state tax or license within the meaning of Art. IX, Sec. 7 of the state constitution shall be dedicated to the fund unless that section is repealed or amended. Revenues dedicated under this section include any revenues received after June 30, 1969. The legislature shall appropriate to the fund sums dedicated under this subsection.

(c) The commissioner shall establish separate accounts for each borough whether organized or unorganized. Half of the fund shall be designated part A. The remaining half of the fund shall be designated part B. The commissioner shall allocate a share of part A to each borough in the proportion that the population of the borough bears to the total population of the state. All of part A shall be so distributed. Part B shall be allocated in the following manner: For each borough where the average per capita income is less than the average per capita income of the state, the income deficiency shall be calculated. The income deficiency shall be the amount by which the total income earned in the borough is less than the total income that would have been earned in the borough had the average per capita income in the borough been equal to the average per capita income in the state. If the sum of the income deficiencies of all boroughs having an income deficiency is more than part B, then the whole of part B shall be allocated to the accounts of the boroughs having income deficiencies so that each shall receive an amount having the same ratio to part B as the income deficiency of each borough has to the sum of the deficiencies of all boroughs having income deficiencies. If the sum

of the income deficiencies is less than part B, then the commissioner shall distribute to the account of each borough having an income deficiency an amount equal to this deficiency. In that case, the remainder of part B shall be distributed among all boroughs on the basis of population in the same manner as prescribed in this subsection for part A.

(d) The commissioner of health and welfare shall annually furnish estimates of the population of boroughs established under this chapter, and such estimates shall be used for calculating apportionments of funds under this section.

(e) In the case of regional unorganized boroughs having a duly elected regional council, the council may prepare a budget for the expenditure of the money allocated to the account of the borough; in the case of a borough which has no regional council, or in the case of a council which elects not to prepare a budget, the department shall prepare the budget and, if a council has been elected, submit it to the council for approval. If no council has been elected, or a council elects not to administer the budget, the department shall administer the expenditure of money under the approved budget. There shall be a separate budget for each calendar year.

(f) There shall be a reserve of 10 per cent of the amount in the account allocated to each unorganized borough. The reserve shall be paid to municipalities within the borough in proportion to their respective populations at the same times as the money is paid to the borough.

(g) The department shall pay, with the money in the account allocated to each regional unorganized borough, administrative or organizational costs incurred in the development and preparation of boroughs, regional councils, budgets, priorities and needs lists, and other

expenses related to the purposes of this chapter.

(h) In (c) and (f) of this section and sec. 90 of this hapter

(1) "income" means remuneration paid by an employer to an employee which qualifies as insured wages under the Alaska Employment Security Act, except that the term excludes income earned by persons whose primary place of employment is a military installation or reservation, or a facility of the Atomic Energy Commission;

(2) "municipalities" means cities of any class, villages having a council under the Federal Indian Reorganization Act, and all other villages having a democratically-elected council or other body which undertakes one or more governmental functions;

(3) "population" means the civilian (nonmilitary) population as of June 30 of a given year.

Sec. 44.48.090. OTHER MONEY. Money appropriated to the fund under this chapter shall be in addition to other state or federal programs of assistance which may be available on and after the effective date of this Act to the residents of organized or unorganized boroughs. The entitlement of boroughs, cities, municipalities, villages, or other governmental entities to funds for the purposes of education, housing, water and sewerage systems, or other programs of any nature whatsoever, shall not be diminished or reduced by virtue of their entitlement to money under this chapter.

Sec. 44.48.100. RIGHT TO LAND SELECTION. Regional unorganized boroughs having a duly elected regional council may exercise the power of land selection conferred on organized boroughs under AS 07.10.150.

Sec. 44.48.110. REGULATIONS. The department may promulgate regulations to carry out the purposes of this chapter.

Sec. 44.48.120. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of regional and community affairs;

(2) "department" means the Department of Regional and Community Affairs;

(3) "fund" means the regional and community affairs fund.

* Sec. 2. (a) There is hereby transferred to the Department of Regional and Community Affairs all the functions, powers, and duties of the Local Affairs Agency (AS 44.19.180 - 44.19.240); the Rural Development Agency (AS 44.19.580 - 44.19.620); the Alaska planning and research division (AS 44.19.870 - 44.19.881); and the planning assistance authority of the Alaska State Housing Authority specified in AS 18.55.970 - 18.55.990.

(b) The Rural Affairs Commission (AS 44.19.720 - 44.19.728) and the Local Boundary Commission (AS 44.19.250 - 44.19.340) are assigned to the department.

(c) Except as may be otherwise expressly provided in this chapter, powers, duties and functions conferred by this chapter are cumulative, in addition to, and not in derogation of, powers, duties and functions otherwise existing or vested in agencies which are assigned, or whose powers, duties, and functions are transferred to the department under this section. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken under applicable law, before the effective date of this Act, by any agency, officer, or office with respect to any of the functions, powers, and duties transferred by this section shall continue in full force and effect until amended, modified, repealed or rescinded by the commissioner or his authorized delegate as may be appropriate in accordance with existing law.

(d) Appropriations, records, equipment and other property of agencies designated in (a) and (b) of this section are transferred to the department.

* Sec. 3. AS 07.05.010 is amended to read:

Sec. 07.05.010. ESTABLISHMENT. All areas in the state which are not within the boundaries of an organized borough are established as regional unorganized boroughs in accordance with the provisions of AS 44.48 [CONSTITUTE A SINGLE UNORGANIZED BOROUGH].

* Sec. 4. AS 07.05.020 is repealed and re-enacted to read:

Sec. 07.05.020. SERVICE AREAS. The legislature authorizes the regional council of each regional unorganized borough, or the Department of Regional and Community Affairs in regional unorganized boroughs having no duly elected council, to establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to, schools, utilities, land use regulations, and fire protection, but excludes power to assess, levy or collect taxes. A new service area shall not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

* Sec. 5. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

Original sponsor: Reed

Offered: 2/5/71
Referred: Rules

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for municipal name changes."

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

* Section 1. AS 29.95 is amended by adding a new section to read:

Sec. 29.95.050. CHANGE OF MUNICIPAL NAME. (a) The governing body of a city or organized borough, whether home rule or otherwise, may change the official municipal name by adopting an ordinance for the purpose and filing the ordinance with the office of the lieutenant governor. Upon receipt of a legally adopted ordinance ratified by the qualified voters voting on the question at a regular or special election, the lieutenant governor shall issue an appropriate order to the municipality changing its existing name. The name change shall become effective on a date fixed in the order and occurring within 45 days of receipt of the ordinance. A copy of the order shall be transmitted to the Local Affairs Agency.

(b) If an ordinance adopted under (a) of this section which results in an order changing the municipal name is subsequently repealed, the lieutenant governor shall issue a further order reinstating the former municipal name within 45 days of the date of the order, unless a different municipal name is adopted by ordinance transmitted to the lieutenant governor for implementation as provided in (a) of this section.

(c) When a municipal name change takes effect by means of an order issued under (a) or (b) of this section, civil or criminal suits, applications, petitions, hearings and other proceedings to which the municipality is a party and pending at or brought after the date the

Introduced: 1/22/71
Referred: Local Government
and Finance

IN THE HOUSE BY WHITTAKER

HOUSE BILL NO. 96

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act excluding rents as a source of sales tax levy by cities and organized boroughs; and providing for an effective date."

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

* Section 1. AS 29.10.357 is amended to read:

Sec. 29.10.357. SALES TAX. [(A)] The council may levy and collect a consumer's sales tax not exceeding three per cent of the sales price on all retail sales [, ON ALL RENTS,] and on all services made within the municipality. The sales tax may be levied and collected on any one or more of these tax sources, at the option of the council.

[(B) NOTHING IN THIS SECTION PROHIBITS A POLITICAL SUBDIVISION THAT WAS COLLECTING A SALES TAX ON RENTS ON APRIL 7, 1959, FROM CONTINUING TO COLLECT THE TAX.]

* Sec. 2. AS 29.10.366 is amended to read:

Sec. 29.10.366. PURPOSE OF SECS. 357 - 363 OF THIS CHAPTER. The sole purpose of secs. 357 - 363 of this chapter is to enable cities, with the consent of the residents, to impose sales taxes, but although this method of taxation is established in a city, the council may at any time abandon it or may abandon one or more of the [THREE] tax sources. If consent to a sales tax is obtained for a special purpose, the proceeds of the tax may not be used for any other purpose without consent of the voters at another referendum.

* Sec. 3. AS 29.15.230 is amended to read:

Sec. 29.25.230. AUTHORITY TO LEVY AND COLLECT CONSUMER SALES TAX. The board of trustees may levy and collect a consumer's sales tax not exceeding two per cent of the sales price on all retail sales [, RENTS] and services made within the city. However, before the sales tax may be levied, the consent of the qualified voters of the city shall be obtained through a referendum vote at a general or special election. The ballot on the referendum shall clearly present the proposition as to whether the sales tax shall be authorized. The ballot shall also set forth whether the tax is to be levied for general revenue for the municipality or for a special purpose, and, if for a special purpose, that purpose shall be specified on the ballot.

* Sec. 4. AS 29.25.420 is amended to read:

Sec. 29.25.420. LEVY AND COLLECTION OF SALES TAX. (a) Except as provided in (b) of this section, the [THE] council may levy and collect a sales tax not to exceed three per cent in accordance with the procedure set forth in secs. 420 - 480 of this chapter, and may prescribe the manner of collecting the tax.

(b) The council may not levy or collect a sales tax upon rents.

* Sec. 5. AS 29.08.010 is amended by adding a new section to read:

(c) Home rule cities are prohibited from levying or collecting a sales tax upon rents.

* Sec. 6. AS 07.12.200 isamended to read:

Sec. 07.12.200. LIMIT ON HOME RULE TAXING POWER. (a) AS 29.30.-200, relating to the collection of penalties on property taxes and interest on property and sales taxes, applies to home rule boroughs.

(b) Home rule boroughs are prohibited from levying or collecting a sales tax upon rents.

* Sec. 7. APPLICATION OF ACT. The exclusion of local sales tax levies upon rents provided for in this Act does not apply to sales taxes upon rents

which have been levied, collected or pledged before July 1, 1971, to pay or secure the payment of principal and interest on outstanding bonds or other authorized and issued indebtedness of home rule or general law cities or organized boroughs.

* Sec. 8. This Act takes effect July 1, 1971.

Introduced: 1/27/71
Referred: Judiciary

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

HOUSE BILL NO. 111

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act revising the Alaska Statutes to reflect corrective amendments by the revisor of statutes."

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

* Section 1. AS 01.05.026 is amended to read:

Sec. 01.05.026. SUPPLEMENTS AS PART OF ALASKA STATUTES. The laws contained in the most recent cumulative supplement to and replacement pamphlets [PAMPHLET] for the Alaska Statutes constitute prima facie a part of the Alaska Statutes, and the laws contained in the Temporary and Special Act pamphlets constitute prima facie the temporary and special law of Alaska, when prepared in accordance with this chapter and authenticated by the lieutenant governor.

* Sec. 2. AS 01.05.031(a) is amended to read:

(a) Subject to the general policies which may be promulgated by the legislative council for the preparation and publication of the annual cumulative supplement to and replacement pamphlets for the Alaska Statutes and of the accompanying Temporary and Special Act pamphlets, the revisor of statutes shall revise for consolidation into the Alaska Statutes and the accompanying pamphlets all laws of a general and permanent nature and all laws of a temporary or special nature enacted by the legislature.

* Sec. 3. AS 02.05.100(a) is amended to read:

(a) Upon a petition or accusation filed by any person or the commission [UNDER THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62)], and after notice and opportunity for hearing, the commission by order may

alter, amend, or modify a certificate, in whole or in part, if the public convenience and necessity requires, and may suspend or revoke a certificate, in whole or in part, for any of the following reasons:

(1) intentional misrepresentation of a material fact in obtaining the certificate;

(2) voluntary discontinuance of operations;

(3) intentional failure to comply with a provision of this chapter or an order, rule, or regulation issued under this chapter;

(4) intentional failure to comply with a term, condition or limitation of the certificate.

* Sec. 4. AS 06.25.230 is amended to read:

Sec. 06.25.230. DEPOSIT OF SECURITIES WITH DEPARTMENT OF REVENUE [ADMINISTRATION]. A trust company shall keep on deposit with the Department of Revenue [ADMINISTRATION] interest and/or dividend bearing stocks or bonds of the United States or of the State of Alaska, or of any city of this state, or such other interest and/or dividend bearing stocks, bonds or securities approved by the Department of Commerce, in value of 20 per cent of its capital stock. The securities so deposited may not be of less value than $5,000. The securities shall be registered in the name of the Department of Revenue [ADMINISTRATION], in trust for the creditors of and depositors with the trust company, subject to sale and transfer and to the disposal of the proceeds thereof by the Department of Revenue [ADMINISTRATION], only on the order of a court of competent jurisdiction. The trust company, so long as it continues solvent and complies with the laws of the state, may be permitted by the Department of Commerce to collect the interest and dividends on the securities and from time to time exchange the securities for others of equal value. All securities before they may be accepted by the Department of Revenue [ADMINISTRATION] for filing under this

section shall be approved by the Department of Commerce. A trust company that is a member of the Federal Deposit Insurance Corporation or whose deposits are insured in whole or in part by an agency of the United States is exempt from the requirements of this section.

* Sec. 5. AS 07.30.010(b) is amended to read:

(b) [ONLY QUALIFIED VOTERS WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY MAY VOTE ON A QUESTION OF INCURRING BONDED INDEBTEDNESS BY A BOROUGH.] If the debt to be incurred is to be an areawide debt, the vote shall be areawide. If the debt to be incurred is to be limited to the area outside cities only, the vote shall be limited to the qualified voters residing [WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY LOCATED] in the area outside cities. If the debt to be incurred is to be limited to a service area only, the vote shall be limited to the qualified voters residing within the service area [WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY LOCATED IN THE SERVICE AREA]. However, if the full faith and credit of the entire borough is to be pledged for payment of the service area debt, the vote shall be areawide.

* Sec. 6. AS 08.01.010(3) is repealed.

* Sec. 7. AS 08.08.110(2) is amended to read:

(2) establish and enforce rules of professional conduct for members of the Alaska Bar which [SHALL] conform but need not be limited to the standards [OF THE CODE OF ETHICS] of the American Bar Association Code of Professional Responsibility;

* Sec. 8. AS 08.20.120(6) is repealed.

* Sec. 9. AS 08.64.380(3)(B) is amended to read:

(B) habitual overuse of alcoholic beverages or depressant, hallucinogenic or stimulant drugs, as defined in AS 17.12.-150(3), or addiction to the use of narcotic drugs as defined in AS 17.10.230(13) [UNDER AS 17.12.040(a)];

* Sec. 10. AS 11.40.120 is amended to read:

Sec. 11.40.120. SODOMY [UNNATURAL CRIMES]. A person who commits sodomy, [OR THE CRIME AGAINST NATURE, OR HAS UNNATURAL CARNAL COPULATION BY MEANS OF THE MOUTH, OR OTHERWISE, EITHER WITH A BEAST OR HUMAN BEING,] upon conviction, is punishable by imprisonment [IN THE PENITENTIARY] for not less than one year nor more than 10 years.

* Sec. 11. AS 14.08.050(a) is amended to read:

(a) The board of directors has exclusive management and control of all state-operated school matters associated with the state's program of education at the elementary and secondary levels subject to the state laws and the regulations promulgated by the [COMMISSIONER OF EDUCATION AND THE] state Board of Education.

* Sec. 12. AS 14.14.170(a) is amended to read:

(a) There is established an advisory school board in each community served by a school and operated by the state. If the state-operated school has an average daily membership [ENROLLMENT] of less than 251 pupils, the advisory school board consists of three members. If the average daily membership [ENROLLMENT] is more than 250 pupils, the advisory school board consists of five members.

* Sec. 13. AS 14.20.020(c) is amended to read:

(c) The board [DEPARTMENT] may establish by regulation additional requirements for the issuance of certificates.

* Sec. 14. AS 14.20.020(d) is amended to read:

(d) The board [DEPARTMENT] may by regulation establish various classes of certificates.

* Sec. 15. AS 14.25.162(a) is amended to read:

(a) If a teacher dies while in membership service or while receiving a disability retirement salary or after normal retirement and leaves a minor child, his surviving spouse is entitled to a survivor's allowance provided the teacher has made a supplemental contribution for at least one year before his death, but if a guardian has been appointed for a minor child, the guardian is entitled to the allowance. A minor child who has neither a surviving parent [SPOUSE] nor a guardian is entitled to the allowance. If a minor child who is at least 19 years old but less than 23 years old is out of school for more than one semester, payments of his benefits shall terminate permanently. Application for the survivor's allowance shall be made in writing to the administrator.

* Sec. 16. AS 14.25.220(4) is amended to read:

(4) "employer" means a public [BOROUGH] school district, [A CITY SCHOOL DISTRICT, INCORPORATED SCHOOL DISTRICT, INDEPENDENT SCHOOL DISTRICT, STATE-OPERATED SCHOOL DISTRICT,] the Board of Regents of the University of Alaska, or the Department of Education;

* Sec. 17. AS 14.25.220(5) is amended to read:

(5) "membership service" means service as a teacher in a public school within the Territory or State of Alaska or both under the supervision and control of the Territorial Board of Education or the Department of Education, the school board of any public [BOROUGH] school district, [INCORPORATED CITY, INCORPORATED SCHOOL DISTRICT, INDEPENDENT SCHOOL DISTRICT,] or the Board of Regents of the University of Alaska, or any period during which the teacher is on an approved sabbatical leave granted in accordance with AS 14.20.310 or is receiving a disability retirement salary; "membership service" is also service as a teacher in a "nonpublic" school which means a school established by an

agency other than a state or its subdivisions which is primarily supported by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials, and which offers grades kindergarten through 12, or any combination of them, and is state approved or accredited;

* Sec. 18. AS 14.25.220(14) is amended to read:

(14) "minor child" means a child or children of the member, including those adopted, either under 19 years old whom the teacher, if living, is supporting or is obligated to support or, if dead, was supporting or was obligated to support at the time of his death or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized [ACCREDITED] by the state Department of Education and whom the teacher, if living, is supporting or, if dead, was supporting at the time of his death;

* Sec. 19. AS 15.07.030 is amended to read:

Sec. 15.07.030. WHO MAY REGISTER. A person who has the qualifications of a voter as set out in AS 15.05.010(1) - (4) [AS 15.05.010(1) - (5)], or who will have the qualifications at the succeeding primary or general election, is entitled to be registered as a voter in the precinct in which he resides.

* Sec. 20. AS 15.07.040 is amended to read:

Sec. 15.07.040. TIME FOR REGISTRATION. A person who is qualified under AS 15.05.010(1) - (4) [AS 15.05.010(1) - (5)] is entitled to register at any time throughout the year commencing December 21, 1968, except that no registration will be made for a period of 14 days preceding the election if the application for registration is made in person or 30 days preceding the election if the application for registration is made by mail; however, registration may be made in person

at either the 1968 primary or general election as provided in sec. 70(d) of this chapter.

* Sec. 21. AS 15.07.060(5) is amended to read:

(5) a declaration that the registrant will be 18 [19] years of age or older on or before the date of the next statewide election;

* Sec. 22. AS 15.07.130(c) is amended to read:

(c) The lieutenant governor shall obtain from the office of vital statistics death certificates and presumptive death certificates for all residents over 18 [19] years of age who have died or who have been presumptively declared dead. The lieutenant governor shall cancel the registration of all deceased voters.

* Sec. 23. AS 15.07.160 is amended to read:

Sec. 15.07.160. UNLAWFUL ACTION. (a) It is unlawful for a registration official to refuse to register a person who is qualified to vote under provisions of AS 15.05.010(1) - (4) [AS 15.05.010(1) - (5)].

(b) It is unlawful for a person to register who knows he is not qualified to vote under provisions of AS 15.05.010(1) - (4) [AS 15.05.-010(1) - (5)].

(c) A person who violates or who aids or abets another to violate (a) or (b) of this section is guilty of a misdemeanor.

* Sec. 24. AS 16.05.250(11) and AS 16.05.788 are repealed.

* Sec. 25. AS 16.50.145 is amended by adding a new subsection to read:

(c) An applicant for a guide examination shall pay a fee of $25.

* Sec. 26. AS 18.70.110 is amended to read:

Sec. 18.70.110. SCHOOL BUILDINGS AND DORMITORIES. The governing body of each school district as set out in AS 14.12.010 [CITY COUNCIL OF EACH CITY AND THE SCHOOL BOARD OF EACH INCORPORATED SCHOOL DISTRICT OUTSIDE AN INCORPORATED CITY], and each organization or individual

awarded custody of children by a court shall provide at least one external stairway as a fire escape on each school building, and on each building or dormitory which houses at least three children, is more than one story in height and contains only one stairway to the ground floor.

* Sec. 27. AS 18.70.300 is amended to read:

Sec. 18.70.300. DEFINITION OF BUILDING. In this chapter "building" means a structure, installation, facility, or edifice erected or in the process of being erected and which is used or intended for use as a commercial, industrial, business, institutional, other public building, or residential building containing four or more dwelling [BUILDING] units.

* Sec. 28. AS 19.05.125 is amended to read:

Sec. 19.05.125. PURPOSE. The purpose of chs. 5 - 25 of this title is to establish a highway department [DIVISION] capable of carrying out a highway planning, construction, and maintenance program which will provide a common defense to the United States and Alaska, a network of highways linking together cities and communities throughout the state (thereby contributing to the development of commerce and industry in the state, and aiding the extraction and utilization of its resources), and otherwise improve the economic and general welfare of the people of the state.

* Sec. 29. AS 19.05.130 is amended to read:

Sec. 19.05.130. DEFINITIONS. In chs. 5 - 40 [30] of this title

(1) "commissioner" means the commissioner of highways;

(2) "construction" or any derivation means construction, reconstruction, alteration, improvement or major repair;

(3) "controlled-access facility" means a highway especially designed for through traffic, and over, from, or to which owners or

occupants of abutting land or other persons have either no right or easement or only a controlled right or easement of access, light, air, or view;

(4) "cost of change, relocation, or removal" means the entire cost incurred by the utility properly attributed to the change, relocation, or removal of a utility after deducting any increase in the value of the new facility and any salvage value derived from the old facility;

(5) "department" means the Department of Highways;

(6) "excess lands" means land acquired by the state in excess of land required for a highway, when the remaining portion of a parcel of land so acquired is left in such shape or condition as to be of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage;

(7) "federal-aid primary, federal-aid secondary, and interstate system" include any highway which is a part of the federal-aid systems as provided in the Federal-Aid Highway Act of 1956, and any laws amending or supplementing it;

(8) "highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility;

(9) "maintenance" means the preservation of each type of highway, roadside structure and facility as nearly as possible in its original condition as constructed, or as subsequently improved, and the operation of highway facilities and services to provide satisfactory and safe highways;

(10) "municipality" means an incorporated city or political subdivision which has jurisdiction over highways in its incorporated area;

(11) (Repealed)

(12) "utility" includes publicly, privately, and cooperatively owned utilities.

* Sec. 30. AS 22.05.080 is amended to read:

Sec. 22.05.080. VACANCIES. (a) The governor shall fill a vacancy in the office of supreme court justice [, INCLUDING THE OFFICE OF CHIEF JUSTICE,] within 45 days after receiving nominations from the Judicial Council, by appointing one of two or more persons nominated by the Judicial Council for each vacant position.

(b) The office of a supreme court justice, including the office of chief justice, becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself. A successor to the office of justice may be appointed, and a successor to the office of chief justice may be selected by the other justices, [HIS SUCCESSOR MAY BE APPOINTED] during this 90-day period and the appointment or selection becomes effective upon the vacancy occurring. A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture, or removal from office of a justice. If a vacancy occurs the Judicial Council shall meet within 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy.

* Sec. 31. AS 22.05.150 is amended to read:

Sec. 22.05.150. ADMINISTRATIVE DIRECTOR. The chief justice of the supreme court shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the

supreme court [CHIEF JUSTICE] and to supervise the administrative operations of the judicial system.

* Sec. 32. AS 23.20.352 is repealed.

* Sec. 33. AS 23.30.195 is amended to read:

Sec. 23.30.195. SURVIVAL OF THE RIGHT TO COMPENSATION. (a) Compensation to which any claimant would be entitled under sec. 190 of this chapter excepting (20) of that section shall, notwithstanding death arising from causes other than the injury, be payable to and for the benefit of the persons following:

(1) if there be a surviving wife or dependent husband and no child of the deceased [UNDER THE AGE OF 18 YEARS], to the wife or dependent husband;

(2) if there be a surviving wife or dependent husband and a surviving child of the deceased [UNDER THE AGE OF 18 YEARS], one-half to the surviving wife or dependent husband the other half to the surviving child;

(3) if there be a surviving child of the deceased [UNDER THE AGE OF 18 YEARS], but no surviving wife or dependent husband, then to the child.

* Sec. 34. AS 23.30.215(a)(3) is amended to read:

(3) If there is one or more surviving children of the deceased, but no surviving wife or dependent husband, then for the support of the child or children 35 per cent of the average weekly wages of the deceased [OR UNTIL THE CHILD OR CHILDREN REACH THE AGE OF 19];

* Sec. 35. AS 24.10.040 is amended to read:

Sec. 24.10.040. LEGISLATIVE FISCAL OFFICER. The fiscal officer of the Legislative Affairs Agency [LEGISLATIVE COUNCIL] serves as the fiscal officer of the legislature.

* Sec. 36. AS 24.10.060 is amended to read:

Sec. 24.10.060. LEGISLATIVE EMPLOYEES. The temporary employees of the legislature are hired for the duration of each session upon the recommendation of the rules [PERMANENT HELP] committee of each house. Employees assigned to each house are under the supervision of the chief clerk and senate secretary. Employees assigned to the duplicating, distributing, mailing, and other centralized services are under the immediate supervision of the Legislative Affairs Agency [LEGISLATIVE COUNCIL PERSONNEL RESPONSIBLE FOR THOSE SERVICES]. Permanent and temporary employees of the legislature and its agencies shall be employed subject to classification and wage plans based on the merit principle and adapted to the special needs of the legislature. Permanent employees are subject to the general state laws regarding leave and retirement.

* Sec. 37. AS 24.30.050 is amended to read:

Sec. 24.30.050. PREFILING OF BILLS. Any member of the legislature whose term extends into a forthcoming session or legislature, or a member-elect may file a bill or a proposal for a bill with the Legislative Affairs Agency [LEGISLATIVE COUNCIL] at any time before January 1 [WITHIN 60 DAYS BEFORE THE CONVENING OF A REGULAR SESSION]. The agency shall [LEGISLATIVE COUNCIL MAY] place a prefiled bill, which is approved by the sponsor, in proper form and deliver it to the chief clerk of the appropriate house on the day on which the next session convenes or is organized for business. Prefiled bills shall be considered as introduced on the day of their delivery to each house.

* Sec. 38. AS 24.30.060(b) is amended to read:

(b) Bills introduced by the legislative council shall be delivered with a letter of explanation to the rules committee of either house and

bear the inscription "Rules Committee by Request of the Legislative Council." Bills presented by the governor shall be delivered with a letter to the rules committee of either house and bear the inscription "Rules Committee by Request of the Governor"; bills [." BILLS] so presented and inscribed shall be received as bills carrying the approval of the governor as to policy and budget impact. The governor or executive director of the legislative council may submit a statement of purpose and effect with each bill and appear personally or through a representative before any committee considering legislation.

* Sec. 39. AS 24.35.010(b) is amended to read:

(b) The lieutenant governor shall file the original enrolled copies of all acts and resolutions and all executive orders having the effect of law which were submitted by the governor to the legislature and which were not rejected by it. These documents shall be kept on file for at least two years. All laws and executive orders having the force of law in the cumulative supplements to or replacement pamphlets for [OF] the Alaska Statutes are prima facie a part of the Alaska Statutes.

* Sec. 40. AS 24.35.010(c) is amended to read:

(c) The Legislative Affairs Agency [LEGISLATIVE COUNCIL] is responsible for arranging for the production, editing, publishing and distribution of the laws of each session. The executive director shall have the slip law copies of the enrolled acts produced in sufficient quantity for one complete set to be provided each legislator pending the publication of supplements to the Alaska Statutes. The commissioner of administration is to receive sufficient copies of the slip laws for official state distribution and he may charge for other distribution on the basis of production and handling costs.

* Sec. 41. AS 24.35.020(a) is amended to read:

(a) The Department of Administration is responsible for making official distribution of the Alaska Statutes to state agencies. Distribution shall be made on the basis of written requests and justifications submitted by the executive officer of each agency to the Legislative Affairs Agency [LEGISLATIVE COUNCIL] and approved by the executive director of the legislative council. A legislator is entitled to receive one set of the statutes for his personal use, and this entitlement is restricted to the one set issued during a member's entire legislative service. The commissioner of administration may deposit one set of the statutes in each free public library within the state. The right of sale to persons and organizations remains exclusively with the publisher.

* Sec. 42. AS 24.45.020(a) is repealed.

* Sec. 43. AS 28.05.025 is amended to read:

Sec. 28.05.025. AUTHORITY OF THE DEPARTMENT OF COMMERCE [PUBLIC SERVICE COMMISSION] TO ADOPT RULES AND REGULATIONS. The Department of Commerce [PUBLIC SERVICE COMMISSION] is responsible for the operation of motor vehicle weighing stations, and the enforcement of highway weight and load limitations. The department [COMMISSION] shall adopt rules and regulations necessary for the operation of motor vehicle weighing stations, and regulations necessary to enforce weight and load limitations on state highways.

* Sec. 44. AS 28.20.420(a) is amended to read:

(a) A nonresident may give proof of financial responsibility by filing with the department a written certificate of an insurance carrier authorized to transact business in the state in which the vehicle described in the certificate is registered, or if the nonresident does not own a vehicle, then in the state in which the nonresident resides, if [OWNED BY THE NONRESIDENT RESIDES, IF HE DOES NOT OWN A

VEHICLE, PROVIDED] the certificate otherwise conforms with this chapter; [, AND] the department shall accept it upon condition that the insurance carrier complies with (b) and (c) of this section [THE FOLLOWING PROVISIONS].

* Sec. 45. AS 28.35.030 is amended to read:

Sec. 28.35.030. DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS. A person who, while under the influence of intoxicating liquor or narcotic drugs, operates or drives an automobile, motorcycle or other motor vehicle in the state upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. In addition, his operator's license may be limited or suspended in accordance with AS 28.15.260(a). [UPON CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE IN VIOLATION OF THIS SECTION, THE OFFENDER'S LICENSE, AND HIS RIGHT TO OBTAIN A LICENSE, TO OPERATE A MOTOR VEHICLE SHALL BE SUSPENDED FOR A PERIOD OF THREE YEARS, AND THIS SUSPENSION IS IN ADDITION TO ANY OTHER PUNISHMENT FIXED BY THE COURT.]

* Sec. 46. AS 28.35.040(d) is amended to read:

(d) A person violating (b) of this section is subject to a fine of not more than $100, and, in addition, the court may limit or suspend his operator's license in accordance with AS 28.15.260(a) [FOR NOT MORE THAN ONE YEAR].

* Sec. 47. AS 28.35.190 is repealed.

* Sec. 48. AS 33.15.010 is amended to read:

Sec. 33.15.010. STATE BOARD OF PAROLE. There is in the department a board of parole consisting of five members to be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. One of the members, who shall be chairman of the board, shall be a person with training or experience

in the field of probation and parole, and he may be an official or employee of the department but may not be an official or employee of the division of corrections [YOUTH AND ADULT AUTHORITY]. The term of each of the other four members of the board is four years and until his successor is appointed and qualifies. Successors are appointed in the same manner as provided for the board members first appointed. A vacancy shall be filled for the unexpired term.

* Sec. 49. AS 37.05.155(a)(3) is repealed.

* Sec. 50. AS 38.05.045 is amended to read:

Sec. 38.05.045. GENERALLY. All lands owned in fee by the state or to which the state may become entitled, excepting tide, submerged or shore lands, and timber or grazing lands, may be sold as provided in secs. 45 - 69 [65] of this chapter. However, this section does not prevent the disposition of lands as provided in secs. 300 - 348 [347] of this chapter.

* Sec. 51. AS 39.20.260(e) is amended to read:

(e)Upon his separation from state service, and unless he re-enters employment of the state within six months of his termination, the unused sick leave of an officer or employee is automatically cancelled without pay for it. If an officer or employee when terminated by the state re-enters the state service within six months after his termination he is entitled to credit for one-half of the sick leave he had accrued at the time of his termination.

* Sec. 52. AS 43.05.150(a) is amended to read:

Sec. 43.05.150. COLLECTION AND DEPOSIT OF MONEY. [(A)] The Department of Revenue shall demand, sue for, collect, receive, and safely keep all money of the state which is not by law entrusted to the care and custody of some other office. When these funds are deposited in financial institutions in the state, under AS 37.10.075,

the department shall deposit them in institutions [THE DEPARTMENT SHALL KEEP THESE FUNDS IN BANKS IN THE STATE] nearest the place where the funds are collected.

* Sec. 53. AS 43.05.150(b), (c), and (d) are repealed.

* Sec. 54. AS 43.20.010(a) is amended to read:

(a) There is levied and there shall be collected and paid for each taxable year upon the net income of every resident and nonresident individual and [,] fiduciary [AND BANK] that is required to make a return and pay a tax under the federal income tax law a tax equal to 16 per cent of the total income tax that would be payable for the same taxable year to the United States at the federal tax rates in effect on December 31, 1963, under the provisions of chapter 1 of subtitle A of the 1954 Internal Revenue Code, Public Law 591, 83rd Congress, 2nd Session, as amended, upon all income derived from sources within the state.

* Sec. 55. AS 43.31.061(a) is amended to read:

(a) The department may appoint and remove examiners and [,] appraisers [AND EMPLOYEES AS] it considers necessary, these persons to have those duties and powers the department prescribes. The compensation of these examiners and appraisers shall be as the department prescribes, and they shall be reimbursed for travel expenses as provided for state employees. [THE SALARIES OF EXAMINERS, APPRAISERS AND EMPLOYEES EMPLOYED BY THE DEPARTMENT SHALL BE AS IT PRESCRIBES, AND EXAMINERS, APPRAISERS AND EMPLOYEES SHALL BE REIMBURSED FOR TRAVELING EXPENSES AS PROVIDED FOR EMPLOYEES OF THE DEPARTMENT OF REVENUE.]

* Sec. 56. AS 43.31.101 is repealed.

* Sec. 57. AS 43.31.161(c) is amended to read:

(c) The determination of tax or deficiency in tax by the department

is final unless the executor, or other party interested, within 50 days from the date of the receipt of a copy of the determination, brings an action [A SUIT] in the superior court against the department and other parties as are interested. It is not necessary to join as parties to the action [SUIT] any heir-at-law, next of kin, distributee, legatee or devisee of the decedent. The complaint shall contain a concise statement of the facts and shall have annexed to it a copy of the return and of the findings and determination of the department and shall pray for an abatement of the tax, in the amount and to the extent, in part or in whole, and for other relief as the executor desires. [THESE SUITS SHALL PROCEED AS OTHER SUITS IN EQUITY.] Either the department, the executor or any other party may appeal to the supreme court in the manner and within the time prescribed by the Alaska Supreme Court Rules.

* Sec. 58. AS 43.31.191(b) is amended to read:

(b) The commissioner of public safety shall proceed upon the warrant in all respects, with like effect, [AND] in the [SAME] manner prescribed by law for [TO] executions issued against property upon judgments of a court of record [, AND IS ENTITLED TO THE SAME FEES FOR SERVICES IN EXECUTING THE WARRANT AS ARE NOW ALLOWED BY LAW FOR LIKE SERVICES TO BE COLLECTED IN THE SAME MANNER AS NOW PROVIDED BY LAW]. Alias and pluries warrants may issue from time to time as the department considers proper until the entire amount of the tax, deficiency, interest, penalties and costs have been recovered.

* Sec. 59. AS 43.31.240 is amended to read:

Sec. 43.31.240. ACTIONS TO ENFORCE PAYMENT. Actions may be brought within the time or times specified in this chapter [SECTION] by the department to recover the amount of taxes, penalties and interest due under this chapter. This action shall be brought in the

superior court where the estate is being or has been administered, or if no administration be had in this state, then in the appropriate court of the jurisdiction [ANY COUNTY] where any of the property of the estate is situated.

* Sec. 60. AS 44.25.020(3) is amended to read:

(3) register [LOG AND] cattle brands; and

* Sec. 61. AS 45.50.320 is amended to read:

Sec. 45.50.320. PENALTIES FOR FRAUDULENT BRANDING OR OTHER ACTS. A person who fraudulently brands timber property with a brand which he knows or has reasonable cause to know is the registered brand of another person, or who knowingly alters, defaces, obliterates or destroys a registered brand impressed or displayed upon timber property, or who knowingly sells or disposes of, or attempts to sell or dispose of, or to convert or appropriate to his own use, without the written consent of the owner, timber property impressed with or displaying upon it a registered brand of another person, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment in jail for not more than six months, or by both. [NOTHING IN THIS SECTION AFFECTS THE SALVAGE OF TIMBER PROPERTY UNDER AS 41.15.450 - 41.15.640.]

* Sec. 62. AS 47.25.300(3) is amended to read:

(3) "needy person" means a needy resident of the state [WHO HAS LIVED IN THE STATE FOR ONE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR RELIEF ASSISTANCE AND] who is not eligible for aid from another public agency or department providing similar services in the state;

* Sec. 63. AS 47.25.780(4) is amended to read:

(4) "needy blind resident" means a needy blind person 18 years of age or over, who is residing in the state [HAS RESIDED IN THE

STATE FOR ONE YEAR IMMEDIATELY PRECEDING APPLICATION FOR ASSISTANCE, OR WHO HAS LOST HIS VISION WHILE A RESIDENT OF THE STATE; PROVIDED, THAT IF THE STATE IN WHICH A PERSON RESIDED IMMEDIATELY BEFORE MOVING TO ALASKA PERMITS WELFARE ASSISTANCE TO NEEDY BLIND ALASKANS MOVING TO THAT STATE BEFORE THE EXPIRATION OF A YEAR OR A LESSER PERIOD OF TIME, THAT PERSON MAY QUALIFY AS A NEEDY BLIND RESIDENT AFTER RESIDING IN ALASKA FOR A PERIOD OF TIME EQUAL TO THE PERIOD OF RESIDENCY REQUIRED BY HIS FORMER STATE].

* Sec. 64. AS 47.25.960(3) is amended to read:

(3) "permanently and totally disabled person" means a needy resident of the state who is not eligible for assistance from another public agency or department providing similar services in the state [AND WHO HAS RESIDED IN THE STATE FOR ONE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED; PROVIDED, THAT IF THE STATE IN WHICH A PERSON RESIDED IMMEDIATELY BEFORE MOVING TO ALASKA PERMITS WELFARE ASSISTANCE TO PERMANENTLY AND TOTALLY DISABLED ALASKANS MOVING TO THAT STATE BEFORE THE EXPIRATION OF A YEAR OR A LESSER PERIOD OF TIME, THAT PERSON MAY QUALIFY AS A PERMANENTLY AND TOTALLY DISABLED PERSON AFTER RESIDING IN ALASKA FOR A PERIOD OF TIME EQUAL TO THE PERIOD OF RESIDENCY REQUIRED BY HIS FORMER STATE];

* Sec. 65. AS 47.30.340(13) is amended to read:

(13) "resident" means a person who <u>is residing in the state</u> [HAS BEEN PHYSICALLY PRESENT AND LIVED CONTINUOUSLY IN THE STATE FOR ONE YEAR]; a married woman may establish a residence apart from her husband, and an unemancipated minor takes the residence of the parent or guardian with whom he is living;

* Sec. 66. AS 11.40.320 is amended to read:

Sec. 11.40.320. CONSTRUCTION OF SECS. 290-310 OF THIS CHAPTER.

Nothing in Secs. 290-310 of this chapter alters or affects the laws relating to incest, [THE INFAMOUS CRIME AGAINST NATURE,] seduction, adultery, rape or other kindred offenses against the person or the public morals, or a prosecution for these offenses.

Sec. 67. AS 14.14.180(a)(2) is amended to read:

(2) has passed his <u>18th</u> [19TH] birthday;

Original sponsor: Rules Committee by request of the Governor

Offered: 4/16/71
Referred: Finance

IN THE HOUSE BY THE LOCAL AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 161

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for the establishment of regional service areas in the unorganized borough; and providing for an effective date."

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

* Section 1. AS 07 is amended by adding a new chapter to read:

CHAPTER 7. REGIONAL SERVICE AREAS IN THE UNORGANIZED BOROUGH.

Sec. 07.07.010. PURPOSE. (a) This chapter provides for regional service areas in the unorganized borough and prescribes the structure and describes the functions of regional service areas. Its basic purpose is to stimulate the economic and social development of the unorganized borough and the achievement of satisfactory levels of living for the residents of the unorganized borough. Its specific purposes are to promote

(1) strengthening of regional capabilities for planning and coordinating federal, state, and other assistance related to economic and social development, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions;

(2) better organization of a range of services related to the needs of the unorganized borough;

(3) greater use, subject to adequate evaluation, of new types of services and innovative approaches in attacking the problems of economic and social development;

(4) the development and implementation of all programs and projects designed to serve the residents of the unorganized borough with the maximum feasible participation of residents of the areas served.

(b) It is further declared to be the purpose of this chapter to provide for measures to enable the residents of the unorganized borough to remain in such areas. It is not the purpose of this chapter to encourage the residents of the unorganized borough to migrate to urban areas, inasmuch as it is the finding of the legislature that such migration is often not in the best interests of the residents of the unorganized borough.

Sec. 07.07.020. REGIONAL SERVICE AREAS. The director of the Local Affairs Agency is authorized to establish, alter or abolish regional service areas in the unorganized borough upon request of a majority of the registered voters in the area. The standards shall include population, geography, economy, transportation, and other factors determined by the director of the Local Affairs Agency. Each regional service area shall embrace an area and population with common interests to the maximum degree possible.

Sec. 07.07.030. REGIONAL SERVICE AREA COMMISSIONS. Each regional service area shall have a commission which shall be so constituted that each city or village incorporated under state or federal law within the regional service area may have one member on the commission designated by the city or village. The remainder of the members shall be representative of other major groups or interests in the regional service area as designated by the director of the Local Affairs Agency. Each member of the commission shall reside in the regional service area he serves.

Sec. 07.07.040. ELECTED COMMISSIONS. (a) The qualified voters

of a regional service area established under this chapter may elect the regional service area commission if

(1) the regional service area has a resident population including at least 50 qualified voters; and

(2) the director of the Local Affairs Agency finds an elected commission to be in the best interests of the residents of the service area; or

(3) at least five per cent of the qualified voters of the regional service area sign and submit a petition to the director of the Local Affairs Agency requesting a referendum on the question of whether there shall be an elected regional service commission and the majority of the qualified voters in the regional service area favor an elected commission by such referendum.

(b) The director of the Local Affairs Agency shall conduct the referendum authorized by (a)(3) of this section within 90 days of the receipt of a petition submitted under (a)(3) of this section.

Sec. 07.07.050. FUNCTIONS OF COMMISSIONS. In carrying out the purposes of this chapter, each commission may with respect to its regional service area

(1) participate in the development, implementation and evaluation of state programs and projects which relate to the economic and social development in that service area;

(2) encourage state departments and agencies in activities related to the economic and social development to plan for and administer those activities in the regional service area on a common or cooperative basis; provide planning assistance to those departments or agencies; provide additional opportunities to residents of the regional service area to participate in these state department or agency activities;

(3) initiate and sponsor projects responsive to the economic or social needs of residents of the regional service area which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;

(4) establish effective procedures by which the residents of the regional service area concerned will be enabled to influence the character of state programs affecting their interests, provide for their regular participation in the implementation of those programs, and assist residents of the service area to secure on their own behalf available economic or social assistance from public and private sources;

(5) develop and implement plans under which the regional service area may assume the status of an organized borough when considered appropriate by the inhabitants of the area;

(6) join with and encourage business, labor and other private groups and organizations to undertake, together with state departments and agencies, activities in support of the economic or social development of the regional service area;

(7) accept financial assistance in the performance of its functions;

(8) enter into agreements with state public corporations, departments and agencies for assistance in the performance of its functions;

(9) do all other acts necessary or proper to perform its functions under this chapter.

Sec. 07.07.06C. ADMINISTRATION. The director of the Local Affairs Agency shall establish procedures and take such actions as he

may consider necessary and appropriate to carry out the provisions of this chapter.

* Sec. 2. This Act takes effect on July 1, 1971.

Introduced: 2/12/71
Referred: Local Government,
State Affairs and Judiciary

IN THE HOUSE BY HAUGEN BY REQUEST

HOUSE BILL NO. 175

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to classification of property for purposes of local taxation and authorizing separate rates of taxation for each class; and providing for an effective date."

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

* Section 1. AS 29.10.335 is amended to read:

Sec. 29.10.335. GENERAL PROPERTY TAX. The council may assess, levy, and collect a general tax for school and city purposes not to exceed three per cent of the assessed valuation upon all real and personal property, and enforce collection by foreclosure, levy, distress, and sale. <u>The council may establish three classes of property for purposes of taxation: land, buildings and fixtures permanently affixed to land, and personal property. The council may establish a separate rate of taxation for each class. Each class may be taxed at any rate, subject to the restrictions on total amount of levy provided in AS 29.30.010. All property within each class must be taxed at the same rate.</u>

* Sec. 2. This Act takes effect on July 1, 1971.

Introduced: 2/17/71
Referred: Health, Welfare & Education and Local Government

IN THE HOUSE BY BANFIELD BY REQUEST

HOUSE BILL NO. 187

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school district revenues; and providing for an effective date."

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

* Section 1. AS 07.15.330 is amended by adding a new subsection to read:

(k) Provisions of (b) - (d) of this section notwithstanding, the following funds shall be credited to and utilized exclusively as school money in a manner determined solely by the board and without the necessity of further appropriation by the assembly:

(1) an unexpended amount of appropriations made by the assembly to the school board under (d) of this section;

(2) interest or other returns on school money invested under (b) of this section;

(3) revenues accruing to the school district in excess of the amount or in addition to the source of anticipated revenue items designated in the annual budget submitted by the board to the assembly under (d) of this section.

* Sec. 2. AS 07.12 is amended by adding a new section to read:

Sec. 07.12.040. LIMIT ON POWER RELATING TO APPROPRIATIONS FOR SCHOOL PURPOSES. AS 07.15.330(k), relating to appropriations for school purposes, applies to home rule boroughs.

* Sec. 3. AS 29.08 is amended by adding a new section to read:

Sec. 29.08.220. LIMIT ON POWER RELATING TO APPROPRIATIONS FOR SCHOOL PURPOSES. AS 07.15.330(k), relating to appropriations for school purposes, applies to home rule cities which are school districts

* Sec. 4. This Act takes effect July 1, 1971.

Introduced: 2/22/71
Referred: Resources and
Local Government

IN THE HOUSE BY HUBER

HOUSE BILL NO. 214

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to powers of second and third class boroughs.

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

* Section 1. AS 07.15 is amended by adding a new section to read:

Sec. 07.15.727. SOLID WASTE DISPOSAL. The second class borough may provide for solid waste disposal, including but not limited to the construction, operation and maintenance of waste treatment works projects, in the area outside cities and may do so in the manner provided for first class cities. The exercise of the power of solid waste disposal, including but not limited to the construction, operation and maintenance of waste treatment works projects, in the area outside cities is at the option of the borough and is not subject to the restrictions on acquiring additional powers specified in secs. 720 and 730 - 800 of this chapter.

* Sec. 2. AS 07.17.020 is amended by adding a new subsection to read:

(c) A third class borough may provide for solid waste disrosal, including but not limited to the construction, operation and maintenance of waste treatment works projects, as provided for second class boroughs in this title.

Introduced: 3/2/71
Referred: State Affairs and Local Government

IN THE HOUSE BY FISCHER

HOUSE BILL NO. 240

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to subdivisions."

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

* Section 1. AS 07.05.040(a) is amended to read:

(a) In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands, Department of Natural Resources, shall exercise the zoning power by adopting zoning regulations. The provisions of AS 40.15.-075 - 40.15.077 apply to subdivisions proposed within the area of the unorganized borough outside incorporated cities, except that the division of lands shall exercise the responsibilities conferred upon planning commissions under those sections.

* Sec. 2. AS 40.15 is amended by adding a new section to read:

Sec. 40.15.075. DEDICATION OF PARK AND OPEN SPACE. (a) When an area of land is proposed for a subdivision, a subdivider shall submit as part of the plat for subdivision approval a plan which dedicates an area of land for the location of a park or open space reasonably necessary to service the residents of the proposed subdivision. However, the subdivider shall not be required to dedicate an area for a park or open space which constitutes more than 10 per cent of the gross area of the proposed subdivision.

(b) The city or borough planning commission having jurisdiction of a proposed subdivision shall by resolution adopt standards to be applied in determining the amount of land required to be dedicated under (a) of this section. The standards adopted shall be based on

the number and type of dwelling units to be included in a subdivision, as well as studies and surveys conducted by the commission to determine the need, if any, for park or open space sites demonstrated in existing subdivisions having various types and numbers of dwelling units within the municipality.

(c) The commission may alter the selection of park and open space sites proposed to be dedicated under the subdivider's plan in (a) of this section. In exercising this authority the commission shall consider variations in the relative desirability and market value of the land included in the area of a particular proposed subdivision and may adjust the total amount of land required to be dedicated in accordance with the comparative value of that land with the average value of all land within the subdivision.

Sec. 40.15.077. PAYMENT IN LIEU OF DEDICATION. In lieu of dedication of park or open space sites under sec. 75(a) of this chapter, a subdivider may pay to the city a sum of money equal to the value of land that would otherwise be required to be dedicated for a park or open space purpose when the planning commission determines on the basis of reasons set out in writing, with reference to the particular subdivision, that it is not in the public interest to make the actual dedication. All funds received under this section shall be held by the city in a special account and shall be used only for acquiring land for park and open space purposes for the benefit of the persons in the subdivision for which the payment was made. The commission may by resolution provide for deferred payment or payment by installment or in a lump sum, upon a subdivider's posting of a surety bond guaranteeing payment.

193

Introduced: 3/4/71
Referred: Local Government
and Judiciary

IN THE HOUSE BY TILLION BY REQUEST

HOUSE BILL NO. 257

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to composition and apportionment of borough assemblies."

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

* Section 1. AS 07.10 is amended by adding a new section to read:

Sec. 07.10.041. COMPOSITION AND APPORTIONMENT. The borough assembly shall be composed and apportioned in a manner set out in the incorporation petition or, if a borough is already incorporated, in a manner prescribed by ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States. A change in assembly composition or apportionment shall be effective beginning with the next regular election to the assembly.

* Sec. 2. AS 07.10.040, AS 07.20.030 and AS 07.20.070(d) are repealed.

Original sponsor: Tillion

Offered: 3/24/71
Referred: Judiciary

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 258

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing borough assemblymen representing a first class city to be elected by city voters rather than being appointed by and from city councils; and providing for an effective date."

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

* Section 1. AS 07.20.020 is amended to read:

Sec. 07.20.020. ELECTION AND APPOINTMENT. (a) Members of the assembly are appointed or elected according to the apportionment determined by the incorporation petition approved by the voters until the assembly is reapportioned. Members representing first class cities are appointed by and from the city councils, unless provided otherwise by city charter or ordinance approved by referendum of the first class city voters and providing for direct election of assemblymen from the city by the qualified voters of the city.

(b) Members representing the area outside first class cities are elected by and from the qualified voters of the area outside first class cities.

(c) The council of each first class city located within an organized borough already incorporated on the effective date of this Act shall, at a special election following the effective date of this Act and occurring before the next regular city election, submit to the qualified city voters an ordinance providing for direct election of assemblymen under this section. If ratified by a majority of the voters, the ordinance shall take effect beginning with the next regular

city election, except that a councilman selected by the council to represent the city on the assembly and serving the term for which selected on the effective date of this Act may complete that term without standing for election under this section. If he vacates his office before the expiration of the term, the council shall appoint a successor to serve until the next regular city election, at which time an assemblyman shall be elected by the qualified city voters to complete the remainder of the unexpired term or serve a new term, as the case may be.

(d) Notwithstanding provisions of AS 07.20.040, AS 07.20.050 and AS 07.30.070(3), provisions of law or charter governing nominations, qualifications, election dates, terms of office, removal, and filing of vacancies with respect to city councilmen apply also to borough assemblymen elected by city voters under this section.

(e) An ordinance approved by the voters under this section may not be repealed or amended by the council but is subject to initiative and referendum as in the case of other city ordinances. Initiative or referendum results which have the effect of repealing or amending an ordinance under this section become effective beginning with the next regular election to the borough assembly, except that the terms of elected assemblymen representing the city at the time of repeal of the ordinance are not affected.

(f) Nothing in this section prevents a candidate from seeking election or serving as both a borough assemblyman and city councilman.

* Sec. 2. APPLICABILITY OF ACT. This Act is intended to apply to assemblymen representing general law first class cities and first class cities which have adopted a home rule charter.

* Sec. 3. EFFECTIVE DATE. This Act takes effect at the time and upon the condition that an amendment to the state constitution requiring the

election of borough assemblymen to represent a first class city, rather than their appointment by and from the city council, is ratified by the people and becomes effective.

Introduced: 3/5/71
Referred: Local Government
and Judiciary

IN THE HOUSE BY HOLM

HOUSE BILL NO. 280

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting local government property tax levies for bond retirement or other municipal purposes; and providing for an effective date."

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

* Section 1. AS 29.30.010 is amended to read:

Sec. 29.30.010. TAX LIMITATION. No organized borough or city [INCORPORATED TOWN OR MUNICIPALITY] may levy and tax for any purpose in excess of three per cent of the assessed valuation of property within the borough or city [TOWN] in any one year. Moreover, the combined levy of borough and city property taxes within a city may not exceed three per cent of the assessed valuation of property within the city in any one year.

* Sec. 2. AS 29.30.020 is amended to read:

Sec. 29.30.020. NO LIMITATION ON TAXES TO PAY OUTSTANDING BONDS. The limitations [LIMITATION] provided for in sec. 10 of this chapter do [DOES] not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds legally authorized and issued before the effective date of this Act. Taxes to pay or secure the payment of principal and interest on bonds legally authorized and issued before the effective date of this Act may be levied without limitation as to rate or amount, but such taxes shall be included in the computation of the limit on the permissible mill levy for other municipal purposes under sec. 10 of this chapter.

* Sec. 3. AS 29.08.010 is amended by adding a new subsection to read:

(c) AS 29.30.010 - 29.30.020, which limit taxing power, apply to home rule cities.

* Sec. 4. AS 07.12 is amended by adding a new section to read:

Sec. 07.12.210. LIMIT ON HOME RULE TAXING POWER. AS 29.30.010 - 29.30.020, which limit taxing power, apply to home rule boroughs.

* Sec. 5. This Act takes effect July 1, 1971.

Introduced: 3/8/71
Referred: Health, Welfare & Education and Local Government

IN THE HOUSE BY WHITTAKER

HOUSE BILL NO. 285

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act exempting certain purchases of food from local sales taxation; and providing for an effective date."

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

* Section 1. AS 29.30 is amended by adding a new section to read:

Sec. 29.30.120. EXEMPTIONS. The following purchases of food for human consumption are exempted from sales taxes levied and collected by an organized borough or city of any class, whether home rule or otherwise:

(1) purchases made with food coupons issued to low-income persons under the federal Food Stamp Act of 1964, as amended;

(2) other food purchases made by low-income persons determined and authorized by the Department of Health and Welfare to be eligible for the exemption on the basis of financial need to supplement food purchasing power because of family size or income level.

* Sec. 2. This Act takes effect July 1, 1971.

290

Introduced: 3/9/71
Referred: Commerce

IN THE HOUSE BY THE COMMERCE COMMITTEE

HOUSE BILL NO. 290

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to land subdivision."

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

* Section 1. AS 40.15.190(2) is repealed and re-enacted to read:

(2) "subdivision" means the division of land into two or more parcels, tracts, lots or other divisions, and includes resubdivisions; however, land that is divided into four or fewer parcels, tracts, lots or other divisions which have access to a public highway or street, provides street and utility easements to all contiguous parcels and can be described by aliquot parts description, is not a subdivision.

Original sponsor: Fischer

Offered: 4/9/71
Referred: Finance

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 296

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act exempting from city and borough taxation the real property of certain residents having limited incomes; and providing for an effective date."

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

* Section 1. AS 29.10.336(a) is amended to read:

(a) Property owned by the city or the state; the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section; the household furniture of the head of a family or a householder not exceeding $500 in value; all property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes; the property of an organization, not organized for business purposes, whose membership is composed entirely of individuals with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of any such organization; and all money on deposit are exempt from taxation.

* Sec. 2. AS 29.10.336 is amended by adding new subsections to read:

(e) The real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real proper . Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall

decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

* Sec. 3. AS 07.12.200 is amended to read:

Sec. 07.12.200. LIMIT ON HOME RULE TAXING POWER. (a) AS 29.30.200

relating to the collection of penalties on property taxes and interest on property and sales taxes, applies to home rule boroughs.

(b) AS 29.10.336(e) - (f), which limit home rule taxing power, apply to home rule boroughs.

* Sec. 4. This Act takes effect January 1, 1972.

Original sponsor: Fischer

Offered: 3/22/72
Referred: Rules

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 296

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act exempting from city and borough taxation the real and personal property of certain residents having limited incomes; and providing for an effective date."

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

* Section 1. AS 29.10.336(a) is amended to read:

(a) Property owned by the city or the state; the real and personal property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section; the household furniture of the head of a family or a householder not exceeding $500 in value; all property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes; the property of an organization, not organized for business purposes, whose membership is composed entirely of individuals with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of any such organization; and all money on deposit are exempt from taxation.

* Sec. 2. AS 29.10.336 is amended by adding new subsections to read:

(e) The personal property of, and the real property owned and occupied as a permanent place of abode by, a resident 65 years of age or over whose annual net taxable income totals less than $10,000 is exempt from taxation of the assessed value of the real and personal property. Only one exemption may be granted with respect to the same property

and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined annual net taxable income of the parties may not exceed $10,000. No real or personal property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify income level by reference to income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) A person who does not own his own place of abode, or who resides in a jurisdiction that does not levy a property tax on a person's place of abode, but who meets the eligibility requirements as to age and income for the tax exemption granted by (e) of this section,

shall receive a grant from the state of $400 in lieu of the tax exemption in (e) of this sectior. A person who owns his place of abode and qualifies for the exemption in (e) of this section may elect to receive the grant provided in this subsection instead of the tax exemption under (e) of this section. Written application for the grant under this subsection shall be made to the Department of Revenue on forms prescribed by the commissioner. The commissioner of revenue shall promulgate regulations necessary to carry out the provisions of this subsection.

(h) The state shall reimburse a borough or city, as appropriate, for the property tax revenues lost to it by the operation of (e) of this section.

* Sec. 3. AS 07.12.200 is amended to read:

Sec. 07.12.200. LIMIT ON HOME RULE TAXING POWER. <u>(a)</u> AS 29.30.-200, relating to the collection of penalties on property taxes and interest on property and sales taxes, applies to home rule boroughs.

<u>(b) AS 29.10.336(e) - (f), which limit home rule taxing power, apply to home rule boroughs.</u>

* Sec. 4. This Act takes effect January 1, 1973.

Introduced: 3/12/71
Referred: State Affairs,
Local Government and Finance

IN THE HOUSE BY ROSE

HOUSE BILL NO. 315

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to parks and open space areas within cities, organized boroughs and the unorganized borough; and providing for an effective date."

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

* Section 1. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.128. DEDICATION OF PARKS AND OPEN SPACE AREAS. (a) As a condition to approval by the platting board of a proposed subdivision for new housing construction, a subdivider shall agree to dedicate a designated area on the plat comprising at least 10 per cent of the gross area included within the proposed subdivision.

(b) A city acquiring a parcel of improved or unimproved land through foreclosure, purchase, condemnation, exchange or otherwise may dedicate all or part of the parcel for park and open space purposes if the governing body, after consideration of the advice of the planning commission, determines that the best use of the property is for park and open space sites given the number and type of existing or anticipated dwelling units within the immediate area of the property and a corresponding absence or lack of proximate park and open space sites to accommodate the population of the area.

(c) To facilitate development of ample parks and open space areas within the city, the governing body may provide for sale, exchange or other disposition of parcels acquired under this section for the sole purpose of consolidating or rearranging parks and open

space areas to provide improved facilities.

(d) In this section "subdivision" means "subdivision" as defined in AS 40.15.190(2).

* Sec. 2. AS 29.08 is amended by adding a new section to read:

Sec. 29.08.220. DEDICATION OF PARKS AND OPEN SPACE AREAS. AS 29.10.128, relating to dedication of parks and open space areas, applies to home rule cities.

* Sec. 3. AS 07.12 is amended by adding a new section to read:

Sec. 07.12.100. DEDICATION OF PARKS AND OPEN SPACE AREAS. AS 29.10.128, relating to dedication of parks and open space areas, applies to home rule boroughs.

* Sec. 4. AS 29.15.290 is amended to read:

Sec. 29.15.290. APPLICATION OF LAWS GOVERNING FIRST CLASS CITIES. All laws and parts of laws empowering and regulating first class cities on special assessments, public utilities, airports, public service rates, franchises, acquisition and disposition of property, motor vehicles and motor vehicle operators, [AND] schools, and dedication of parks and open space areas, apply to second class cities.

* Sec. 5. AS 29.20 is amended by adding a new section to read:

Sec. 29.20.065. PARKS AND RECREATION AREAS. The board of trustees of a city of the third class may provide for the location, construction, operation and maintenance of parks, trails and playgrounds, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128.

* Sec. 6. AS 29.25.297 is amended to read:

Sec. 29.25.297. PARKS AND RECREATION. The council may provide for the location, construction, operation and maintenance of parks, trails, playgrounds and community centers and the preservation of the

scenic and historic resources of the community, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128.

* Sec. 7. AS 07.15 is amended by adding a new section to read:

Sec. 07.15.727. PARKS AND RECREATION. The second class borough may provide for the location, construction, operation and maintenance of parks, trails and playgrounds in the area outside cities, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128. The exercise of powers under this section in the area outside cities is at the option of the borough and is not subject to the restrictions on acquiring additional powers specified in secs. 720 and 730 - 800 of this chapter.

* Sec. 8. AS 07.17 is amended by adding a new section to read:

Sec. 07.17.022. PARKS AND RECREATION. A third class borough may provide for the location, construction, operation and maintenance of parks, trails and playgrounds in the area outside cities, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128. The exercise of powers in the area outside cities under this section is at the option of the borough and is not subject to the restrictions on acquiring additional powers specified in secs. 720 and 730 - 800 of this chapter.

* Sec. 9. AS 38.05.295 is amended to read:

Sec. 38.05.295. PARKS AND RECREATION AREAS. (a) The commissioner shall establish a policy and prescribe rules and regulations by which parks and recreation areas, including public scenic overlooks and cultural sites, shall be developed and managed in a manner that will best serve the interests of the people of the state. The

commissioner may classify public lands as parks, scenic overlooks, cultural sites and recreation areas as long as the general intent of this chapter is maintained.

(b) The director of the division of parks shall by regulation establish for observance by local governments criteria and guidelines relating to development, preservation, maintenance and operation of parks located or enlarged after July 1, 1971 within home rule and general law cities and organized boroughs of any class. For this purpose and in order to qualify for state aid for parks and open space areas u 'er AS 43.18.010(j) the local governments shall submit at a time and in a form designated by the director an overall plan for park and open space development within the municipality as well as specific plans for individual park and open space projects.

* Sec. 10. AS 43.18.010 is amended by adding a new subsection to read:

(j) During each fiscal year the state shall pay to a city or an organized borough an amount equal to 50 per cent of the nonfederal share of estimated reasonable costs for that year of the development, care, and maintenance of parks and open space areas in accordance with a plan submitted and approved by the division of parks under AS 38.05.-295(b). Funds shall be allocated only for use to further the purposes aided under this section and after the local government applies for, and makes reasonable efforts to secure available federal assistance for such purposes.

* Sec. 11. AS 07.05.040(a) is amended to read:

(a) In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands, Department of Natural Resources, shall exercise the zoning power by adopting zoning regulations. The provisions of AS 29.10.128(a) and (c) apply to subdivisions proposed within the area of the

unorganized borough outside incorporated cities, except that the division of lands shall exercise the responsibilities conferred upon platting boards under AS 29.10.128(a).

* Sec. 12. This Act takes effect July 1, 1971.

Introduced: 3/19/71
Referred: Local Government and Judiciary

IN THE HOUSE BY GUESS AND MCVEIGH

HOUSE BILL NO. 332

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled "An Act relating to judicial review of municipal tax assessments."

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

Section 1. AS 29.10.426 is amended to read:

Sec. 29.10.426. JUDICIAL REVIEW. A person aggrieved by an order of the board of equalization may appeal to the superior court for review de novo after he has exhausted his administrative remedy under secs. 369 - 540 of this chapter. <u>If the aggrieved party is contesting the amount of the assessed valuation of property, the superior court shall by trial de novo determine the fair market value of the property as of the assessment date. Either party may demand a jury trial. In this section "fair market value" means the amount a willing buyer would pay and a willing seller accept as the purchase price for the property.</u>

Introduced: 3/22/71
Referred: Local Government

IN THE HOUSE BY GUESS AND BOWMAN

HOUSE BILL NO. 335

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to powers of a city or borough to provide mass transportation facilities and services."

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

* Section 1. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.142. MASS TRANSPORTATION. The council may purchase, contract for, or otherwise acquire, and establish, maintain and operate mass transportation facilities and services for the transport of passengers within the city. The council may exercise the power of eminent domain to acquire transportation facilities and services under this section at their fair market value and may exercise the power through the filing of a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. The fair market value is the amount a willing buyer would pay and a willing seller accept as the purchase price without threat of eminent domain or other compulsion with the premise that the transportation facility or service would be continued for a reasonable period of time in the future. Mass transportation facilities and services provided for under this section shall be regulated by the Alaska Transportation Commission in the same manner as other public carriers.

* Sec. 2. AS 29.15 is amended by adding a new section to read:

Sec. 29.15.187. MASS TRANSPORTATION. The board of trustees may provide for mass transportation facilities and services in the same manner as prescribed for first class cities in AS 29.10.142. Mass transportation facilities and services provided for under this section

shall be regulated by the Alaska Transportation Commission in the same manner as other public carriers.

* Sec. 3. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.335. MASS TRANSPORTATION. The council may provide for mass transportation facilities and services in the same manner as prescribed for first class cities in AS 29.10.142. Mass transportation facilities and services provided for under this section shall be regulated by the Alaska Transportation Commission in the same manner as other public carriers.

* Sec. 4. AS 07.15 is amended by adding a new section to read:

Sec. 07.15.370. MASS TRANSPORTATION. The first and second class borough may provide for areawide mass transportation and may do so in the manner provided for first class cities. Upon adoption of an ordinance to provide for areawide mass transportation, no general law or home rule city within the borough may exercise the power to provide mass transportation, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power. The exercise of the areawide power is at the option of the borough and is not subject to the restrictions on acquiring additional areawide powers specified in sec. 350 of this chapter. Mass transportation facilities and services provided for under this section shall be regulated by the Alaska Transportation Commission in the same manner as other public carriers.

Introduced: 4/13/71
Referred: Local Government

IN THE HOUSE BY COLLETTA AND GUESS

HOUSE BILL NO. 423

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the involvement of young people in local government and school governance; and providing for an effective date."

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

* Section 1. PURPOSE. It is the intent of the legislature in enacting this statute to provide an opportunity for the young people of Alaska to become involved in the institutions and processes of local government and school governance comparable to that embodied in legislation under consideration at the 1971 session of the legislature providing for participation in the executive branch of state government.

* Sec. 2. AS 07.40 is amended by adding new sections to read:

ARTICLE 2. INVOLVEMENT OF YOUNG PEOPLE IN BOROUGH GOVERNMENT.

Sec. 07.40.020. ESTABLISHMENT OF COMMISSION. A borough assembly may by ordinance create a commission on the involvement of young people in borough government.

Sec. 07.40.021. COMPOSITION AND CHAIRMAN. The commission may consist of not more than nine members, drawn from fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17 through 22 age group, and shall include women and representatives of minority groups. The members shall be appointed by the borough assembly in the manner prescribed by ordinance without regard to political affiliation and shall serve at the pleasure of

that body. One member shall be designated by the assembly as chairman of the commission.

Sec. 07.40.022. COMPENSATION AND PER DIEM. Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by ordinance.

Sec. 07.40.023. FUNCTIONS OF THE COMMISSION. (a) The commission shall establish procedures to enable it to recommend annually to the assembly a group of promising young men and women from whom the assembly may select interns and youth voting members of borough boards and commissions. The commission, in establishing these procedures, shall enlist the aid of borough residents who are actively interested in working with young people. Following adoption of the procedures, the commission shall accept applications from individuals and nominations for consideration, and shall interview all applicants or nominees.

(b) Recommendations of the commission shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(c) Annually, the commission shall evaluate the program and shall submit a written report to the assembly.

Sec. 07.40.024. INTERNS. An intern may be appointed to serve on the staff of the assembly or the borough executive for a period of time prescribed by the assembly, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the borough. Service will begin at a time prescribed by the assembly. Interns shall be appointed without regard to political affiliation. Salaries shall be individually established by the assembly on the basis

of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 07.40.025. APPOINTMENT TO BOROUGH BOARDS AND COMMISSIONS. (a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the assembly may appoint any 17 through 21 year old borough resident to a borough board or commission if recommended by the borough youth involvement commission.

(b) A young person recommended by the commission may be appointed to borough boards or commissions with special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a borough board or commission under this section is entitled to the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the assembly when required by law. No additional seat on a borough board or commission is created by virtue of secs. 20 - 25 of this chapter.

* Sec. 3. AS 29.95 is amended by adding new sections to read:

ARTICLE 2. INVOLVEMENT OF YOUNG PEOPLE IN CITY GOVERNMENT.

Sec. 29.95.020. ESTABLISHMENT OF COMMISSION. A city council by ordinance may create a commission on the involvement of young people in city government.

Sec. 29.95.021. COMPOSITION AND CHAIRMAN. The commission may consist of not more than nine members, drawn from fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional members from the 17 through 22 age group, and shall include women and representatives of minority groups. The members shall be appointed

by the city council in the manner prescribed by ordinance without regard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the council as chairman of the commission.

Sec. 29.95.022. COMPENSATION AND PER DIEM. Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by ordinance.

Sec. 29.95.023. FUNCTIONS OF THE COMMISSION. (a) The commission shall establish procedures to enable it to recommend annually to the council a group of promising young men and women from whom the council may select interns and youth voting members of city boards and commissions. The commission, in establishing these procedures, shall enlist the aid of city residents who are actively interested in working with young people. Following adoption of the procedures, the commission shall accept applications from individuals and nominations for consideration, and shall interview all applicants or nominees.

(b) Recommendations of the commission shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(c) Annually, the commission shall evaluate the program and shall submit a written report to the council.

Sec. 29.95.024. INTERNS. An intern may be appointed to serve on the staff of the council or the city executive for a period of time prescribed by the council, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the city. Service will begin at a time prescribed by the council. Interns

shall be appointed without regard to political affiliation. Salaries shall be individually established by the council on the basis of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 29.95.025. APPOINTMENT TO CITY BOARDS AND COMMISSIONS. (a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the council may appoint any 17 through 21 year old city resident to a city board or commission if recommended by the city youth involvement commission.

(b) A young person recommended by the commission may be appointed to city boards or commissions with special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a borough board or commission under this section is entitled to the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the council when required by law. No additional seat on a city board or commission is created by virtue of secs. 20 - 25 of this chapter.

* Sec. 4. AS 14.14 is amended by adding new sections to read:

ARTICLE 3. INVOLVEMENT OF YOUNG PEOPLE IN SCHOOL GOVERNANCE.

Sec. 14.14.300. ESTABLISHMENT OF COMMITTEE. A school board may create a committee or other advisory body on the involvement of young people in school governance.

Sec. 14.14.301. COMPOSITION AND CHAIRMAN. The committee may consist of not more than nine members, drawn from the fields of public affairs, education, the sciences, the professions, other fields of private endeavor, from the state or local service, and three additional

members from the 17 through 22 age group, and shall in[illegible]n and representatives of minority groups. The members shall b[illegible]inted by the board in the manner prescribed by the board without [illegible]gard to political affiliation and shall serve at the pleasure of that body. One member shall be designated by the board as chairman of the committee.

Sec. 14.14.302. COMPENSATION AND PER DIEM. Members of the committee or other advisory body serve without compensation but are entitled to per diem and travel expenses as may be authorized by the board.

Sec. 14.14.303. FUNCTIONS OF THE COMMITTEE. (a) The committee shall establish procedures to enable it to recommend annually to the board a group of promising young men and women from whom the board may select interns and youth voting members of district committees or other advisory bodies. The committee, in establishing these procedures shall enlist the aid of district residents who are actively interested in working with young people. Following adoption of the procedures, the committee shall accept applications from individuals and nominations for consideration, and shall interview all applicants or nominees

(b) Recommendations of the committee shall be limited to young people who

(1) have a capacity, desire, interest, ability and potential for leadership and service to the community and to the state;

(2) will have attained the age of 17 but not the age of 22 before the beginning of their service.

(c) Annually, the committee shall evaluate the program and shall submit a written report to the board.

Sec. 14.14.304. INTERNS. An intern may be appointed to serve on the staff of the board or the district administrator for a period

of time prescribed by the board, with a maximum of one year. He may be assigned responsibilities in any office, department or agency of the district. Service will begin at a time prescribed by the board. Interns shall be appointed without regard to political affiliation. Salaries shall be individually established by the board on the basis of prior experience and the responsibilities of the position to which the intern is assigned.

Sec. 14.14.305. APPOINTMENT TO DISTRICT COMMITTEES OR OTHER ADVISORY BODIES. (a) Notwithstanding AS 39.05.100 or a provision of law relating to age, the board may appoint any 17 through 21 year old district resident to a district committee or advisory body if recommended by the youth involvement committee.

(b) A young person recommended by the committee may be appointed to district committees or advisory bodies with special qualifications for membership if the proposed nominee, except for his age, meets the required qualifications set by law.

(c) An individual appointed to a district committee or advisory body under this section is entitled to the rights, privileges and responsibilities of other members, and his appointment is subject to confirmation by the board when required by law. No additional seat on a district committee or advisory body is created by virtue of secs. 300 - 305 of this chapter.

Sec. 14.14.306. In secs. 300 - 306 of this chapter

(1) "board" means the governing body of a borough or city school district, or the Board of Directors for the State-Operated Schools;

(2) "district" means a borough or city school district or the state-operated school system.

* Sec. 5. This Act takes effect on the day after its passage and

approval or on the day it becomes law without approval.

Introduced: 4/30/71
Referred: Local Government

IN THE HOUSE BY SPECKING BY REQUEST

HOUSE BILL NO. 456

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to exercise of planning, platting and zoning powers within organized boroughs."

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

* Section 1. AS 07.15.340 is amended by adding new subsections to read:

(d) The governing body of a home rule or first class city may at its option by ordinance assume the exercise of planning, platting and zoning powers within its boundaries in lieu of borough exercise of those powers within the city. The provisions of (a) and (b) of this section do not restrict the authority conferred in this subsection, and the city may exercise the planning, platting and zoning power as provided in its charter or by ordinance.

(e) If the governing body of a home rule or first class city within a borough elects to exercise planning, platting and zoning powers as provided in (d) of this section, the borough continues to exercise the powers in all areas of the borough outside that city. In addition the city governing body may by ordinance choose to reinvest the assembly with authority to exercise the powers within the city.

* Sec. 2. AS 07.15.310 is amended to read:

Sec. 07.15.310. SCOPE OF AREAWIDE POWERS. Except as provided in sec. 340(d) and (e) of this chapter, first [FIRST] and second class boroughs shall exercise the powers specified in secs. 310 - 350 of this chapter on an areawide basis, both within and outside cities of any class within its boundaries. Except as provided in sec. 340(d) and (e) of this chapter, no [NO] city of any class, whether home rule or

not, within an organized borough, may exercise any areawide power provided in this section or specified in the petition approved by the voters for incorporation once that power is being exercised by an organized borough.

Introduced: 5/10/71
Referred: Local Government
and Finance

IN THE HOUSE

BY HUBER,BRADNER,FINK, HOLM AND WARWICK

HOUSE BILL NO. 470

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the sources of revenue for the payment of bonded indebtedness; and providing for an effective date."

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

* Section 1. AS 07.15.030(3) is amended to read:

(3) on a service area basis for functions performed in a service area only; payment of debt principal and interest as well as other costs shall be limited to the service area, except that, subject to the election requirements of AS 07.30.010(b), the full faith and credit of the entire borough, subject to AS 29.30.025, may be pledged to guarantee payment of principal and interest.

* Sec. 2. AS 29.30 is amended by adding a new section to read:

Sec. 29.30.025. PERMISSIBLE SOURCES OF REVENUE FOR DEBT PAYMENTS. If, after the effective date of this Act, a city or borough, whether home rule or general law, is unable to pay the principal and interest of bonded or other indebtedness from municipal revenue sources other than ad valorem taxes, the state shall levy and collect, in a manner prescribed by regulation of the Department of Revenue, a consumers sales tax on the sales price of all retail sales, rents, and services made within the city or borough, only for the purpose of, and at a rate not exceeding two per cent for a maximum of 20 years, satisfying the payments, notwithstanding other provisions of law limiting the permissible rate of sales tax levy within a municipality or requiring voter approval for a sales tax levy. In no event may ad valorem

taxes be levied to amortize bonded or other indebtedness incurred after the effective date of this Act.

* Sec. 3. AS 29.50.040 is amended to read:

Sec. 29.50.040. LEVY OF TAXES AND PLEDGE OF REVENUES. The governing body shall provide for the levy and collection of taxes <u>other than ad valorem taxes, in the case of bonds authorized and issued after the effective date of this Act,</u> in amounts sufficient to pay the principal and interest on the bonds as they become due, and may [, IN ADDITION TO PAYMENT FROM THE LEVY AND COLLECTION OF AD VALOREM TAXES,] provide for payment of principal and interest from such special funds or other revenues as the governing body may specifically pledge for payment. The pledge of a special fund or other revenues is a binding obligation, according to its terms, to continue the collection of the special fund or revenues so long as the bonds or any of them, are outstanding, notwithstanding any other provision of law.

* Sec. 4. This Act takes effect on July 1, 1971.

IN THE HOUSE BY KERTTULA

HOUSE BILL NO. 474

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the taxation of real property."

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

* Section 1. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.337. LIMIT ON TAX LEVY. The real property tax levied under sec. 335 of this chapter on a private dwelling, which is the principal place of residence of the taxpayer, may not exceed five per cent of the taxpayer's annual net income indicated by the state income tax return for the previous calendar year. As used in this section, "principal place of residence of a taxpayer" is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return.

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Introduced: 2/7/72
Referred: Local Government and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for boroughs in the unorganized borough; and providing for an effective date."

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

* Section 1. AS 07 is amended by adding a new chapter to read:

CHAPTER 04. BOUNDARIES AND ORGANIZATION OF BOROUGHS IN THE UNORGANIZED BOROUGH.

ARTICLE 1. BOUNDARIES, ADMINISTRATION AND INCORPORATION.

Sec. 07.04.010. BOUNDARIES. By the tenth day following the convening of the first session of the Eighth Legislature, the Local Boundary Commission shall propose to the legislature a division of the unorganized area of the state into unorganized boroughs. The Local Boundary Commission may propose adjustments to the boundaries of existing boroughs to the extent necessary to secure conformity with the standards for borough boundaries set forth in the statutes and in the Constitution of the State of Alaska. A proposed adjustment of existing boundaries shall provide for those transitional matters the commission considers necessary or appropriate. The boundaries proposed by the Local Boundary Commission become effective 45 days after presentation or at the end of the session whichever is earlier, unless disapproved by resolution concurred in by a majority of the members of each house. The proposed division is not subject to modification by the legislature as an alternative to disapproval, and if disapproved by the legislature the proposed division made in accordance with this section is of no effect.

Sec. 07.04.020. ADMINISTRATION. Unorganized boroughs shall be administered by the Department of Community and Regional Development as prescribed by the legislature.

Sec. 07.04.030. ADVISORY COUNCIL. In each unorganized borough the lieutenant governor, within 60 days of the establishment of unorganized boroughs in the manner provided in sec. 10 of this chapter shall provide for election of an advisory council of 11 members. The council may participate in an advisory capacity in the development and implementation of state programs and projects relating to the borough. Elections of council members shall be held every four years.

Sec. 07.04.035. COUNCIL MEMBERSHIP. At the time of election and during their tenure advisory council members shall be qualified voters of the state and residents of the borough. A vacancy on the advisory council shall be filled by a person qualified for election to the advisory council and selected by majority vote of the remaining members of the council. If a majority of seats on the advisory council are vacant concurrently, the lieutenant governor shall fill the vacancies by appointment of persons qualified for election to the advisory council.

Sec. 07.04.040. INCORPORATION. A percentage, determined in accordance with AS 07.10.020(8), of the qualified voters of an unorganized borough may petition for organization of the borough as a borough of the first, second or third class in the manner provided in AS 07.10 and 07.17, except that the petition need not include matter relating to boundaries.

ARTICLE 2. HOME RULE CHARTERS.

Sec. 07.04.050. ADOPTION OF CHARTER. An unorganized borough established under this chapter may adopt a home rule charter in the manner prescribed by AS 29.40.010 - 29.40.030 and AS 29.85.110(a) - (d),

except that the advisory council elected in accordance with sec. 30 of this chapter shall perform the duties assigned to city councils, and except that the charter commission shall consist of 11 members. Vacancies on the charter commission shall be filled in the same manner as vacancies on the advisory council.

Sec. 07.04.060. ORGANIZATION. The charter commission shall initiate organization of the borough in accordance with the terms of the charter by submission of the charter to the Department of Community and Regional Development. The charter shall be submitted within one year of the first meeting of the commission. The department shall review the charter in light of the circumstances of the particular borough and, within 120 days from receipt shall transmit the charter, together with its findings and recommendations, to the Local Boundary Commission.

Sec. 07.04.070. HEARING. The Local Boundary Commission shall hold at least one hearing in the area proposed to be organized for the purpose of hearing public comment on the charter.

Sec. 07.04.080. LOCAL BOUNDARY COMMISSION DETERMINATION. The Local Boundary Commission, within 90 days from receipt of the charter and the recommendations and findings of the Department of Community and Regional Development, shall determine whether the charter meets standards for organization established by the laws and the Constitution of the State of Alaska and by regulations adopted by the commission.

Sec. 07.04.090. REJECTION OF CHARTER. If the Local Boundary Commission determines that the charter fails to meet the standards for organization it shall reject the charter stating in writing its reasons for the rejection.

Sec. 07.04.100. AMENDED CHARTER. A charter commission, within 60 days of rejection, may prepare and submit to the Department of

Community and Regional Development an amended charter fairly meeting the stated objections to the original charter. The amended charter shall be evaluated in the same manner as the original charter. No more than one original and one amended charter may be submitted within one 12 month period.

Sec. 07.04.110. RATIFICATION OF CHARTER. If the Local Boundary Commission determines that the charter meets the standards for organization it shall notify the lieutenant governor. As soon thereafter as practicable the lieutenant governor shall provide for an election in the borough on the question of whether or not the charter is ratified and for election of the officers provided for in the charter. The election shall be preceded by publication and posting of the proposed charter by the lieutenant governor substantially in the manner provided for other charter elections in AS 29.85.150.

Sec. 07.04.120. CERTIFICATION OF RESULTS. If a majority of the votes cast by the qualified voters of the borough are against ratification the lieutenant governor shall so certify and shall certify that the charter is defeated. If a majority of the votes cast by the qualified voters on the question are in favor of ratification the lieutenant governor shall so certify and declare that the borough in which the election was held is an organized borough and a municipal corporation in accordance with the terms of the charter. The lieutenant governor shall also certify the names of those candidates who received the greatest number of votes for the offices established by the charter.

Sec. 07.04.125. VOTERS, ELECTIONS AND COSTS. (a) A person is qualified to vote in a borough election authorized in this chapter if he is qualified to vote in state elections and if he is a resident of the borough.

(b) The lieutenant governor shall supervise elections under this

chapter as provided for supervision of other borough elections under AS 07.10.120(d).

(c) The state through the office of the lieutenant governor shall assume the costs of elections and charter preparation under this chapter.

* Sec. 2. Nothing in this Act may be construed to affect any organization petition pending on the effective date of this Act. All such petitions shall be acted upon in the manner provided by law in effect prior to the effective date of this Act.

* Sec. 3. AS 07.05.010 and AS 07.05.040 are repealed.

* Sec. 4. This Act takes effect July 1, 1972.

Introduced: 2/14/72
Referred: Local Government
and State Affairs

IN THE HOUSE BY FISCHER AND HUBER

HOUSE BILL NO. 660

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the governance of the unorganized borough; and providing for an effective date."

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

* Section 1. AS 07.05 is amended by adding new sections to read:

Sec. 07.05.050. ASSEMBLY. The legislature, in joint session sitting as a unicameral body, acts by ordinance or resolution as the assembly for the unorganized borough.

Sec. 07.05.060. ASSEMBLY OFFICERS. The president of the senate serves as temporary borough chairman until the permanent chairman is elected by a majority vote of the membership of the assembly. The assembly may provide for the election of additional officers.

Sec. 07.05.070. RULES AND QUORUM. The assembly may adopt rules for the conduct of its business by a majority vote of the membership of the assembly. A majority of the membership of the assembly constitutes a quorum to do business. Passage of an ordinance or adoption of a resolution requires an affirmative vote of a majority of the membership of the assembly.

Sec. 07.05.080. POWERS. The assembly has the powers of a first class borough. It may pass ordinances relating to schools, planning and zoning, assessment and taxation, and any other subject or activity with which a first class organized borough is empowered to deal.

* Sec. 2. This Act takes effect on the date a constitutional amendment amending sec. 6, art. X, Constitution of the State of Alaska, establishing the legislature as the assembly for the unorganized borough becomes effective

Introduced: 2/29/72
Referred: Health, Welfare and Education

IN THE HOUSE

BY THE HEALTH, WELFARE AND EDUCATION COMMITTEE

HOUSE BILL NO. 709

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the terms of office of members of school boards."

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

* Section 1. AS 14.12.050(b) is repealed and re-enacted to read:

(b) When a transition is made from a five-man school board to a seven-man school board, the length of the terms of office for the two new members to be elected shall be determined by lot so that when the terms of office for the two new members are assigned, the terms of office for the entire seven-man board shall be as follows: three members have a three-year term, two members have a two-year term, and two members have a one-year term. A seven-man school board, the terms of office of whose members at the time of transition from a five-man board did not result in terms expiring in the manner provided in this section, may, by resolution adopted by a majority of the members of the board, adjust the terms of office to conform to the schedule for expiration of terms of office provided in this section.

Introduced: 3/3/72
Referred: Local Government,
State Affairs and Judiciary

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

HOUSE BILL NO. 720

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the incorporation of boroughs; and providing for an effective date."

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

* Section 1. AS 07.10 is amended by adding a new section to read:

Sec. 07.10.115. APPROVAL BY LEGISLATURE. If the Local Boundary Commission accepts the petition, and before an election under sec. 120 of this chapter, the commission shall present the proposed borough incorporation to the legislature during the first 10 days of a regular session. The incorporation shall be approved by the legislature 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

* Sec. 2. AS 07.10.120(a) is amended to read:

(a) Date of election. Upon the approval of the proposed incorporation by the legislature, the Local Boundary Commission [IF THE LOCAL BOUNDARY COMMISSION ACCEPTS THE PETITION, IT] shall immediately notify the lieutenant governor of its action and shall furnish him with such information on the proposed incorporation as he requires. Within 30 days after the receipt of his notification, the lieutenant governor shall issue an order that an election be held within the proposed organized borough to determine the question of whether the qualified voters of the proposed organized borough desire to be incorporated; and if so, to elect members of the first assembly of the borough, the borough chairman, and the members of the first school

board, and to determine whether the borough shall have an appointed borough manager or an elected borough chairman. The date of the election specified by the lieutenant governor in the order shall be not less than 30 nor more than 90 days after the date of the order of election. The lieutenant governor shall also specify in the election order the dates during which petitions for nominations may be filed with him.

* Sec. 3. AS 44.19.260(a) is amended by adding a new paragraph to read:

(5) present to the legislature during the first 10 days of a regular session proposed borough incorporations.

* Sec. 4. Notwithstanding the provisions of AS 07.10.115, with respect to any borough proposed for incorporation after February 15, 1972, and before an election under AS 07.10.020, the Local Boundary Commission shall submit the proposed borough incorporation to the legislature.

* Sec. 5. This Act takes effect February 15, 1972.

Introduced: 3/9/72
Referred: Resources and
State Affairs

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

HOUSE BILL NO. 729

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to parks and open space areas within cities, organized boroughs and the unorganized borough; and providing for an effective date."

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

* Section 1. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.128. DEDICATION OF PARKS AND OPEN SPACE AREAS. (a) As a condition to approval by the platting board of a proposed subdivision for new housing construction, a subdivider shall dedicate a designated net acreage per cent of the gross area on the plat for park and open space purposes, according to the following formula: $H = [(\frac{B}{A} XC) XE] XG$

H = percentage of net acreage required for neighborhood park purposes

A = average lot size in proposed subdivision (sq. ft.)

B = the number of square feet in an acre available for residential development

C = maximum dwelling units per lot allowed by the applicable zoning ordinance

E = average persons per dwelling unit in the zoning district

G = acreage standard for neighborhood parks divided by the number of people that acreage should serve.

(b) For purposes of the formula specified in (a) of this section, the platting board shall determine the number of square feet in an acre available for residential development "B", and the acreage standard for neighborhood parks and the number of people that acreage should serve "G".

(c) A city acquiring a parcel of improved or unimproved land through foreclosure, purchase, condemnation, exchange or otherwise may dedicate all or part of the parcel for park and open space purposes if the governing body, after consideration of the advice of the planning commission, the results of the application of the formula specified in (a) of this section, and an absence or lack of proximate park and open space sites to accommodate the population of the area, determines that the best use of the property is for park and open space purposes.

(d) To facilitate development of ample parks and open space areas within the city, the governing body may provide for sale, exchange or other disposition of parcels acquired under this section for the sole purpose of consolidating or rearranging parks and open space areas to provide improved facilities.

(e) Up to five per cent of the amount of land required to be dedicated under (a) of this section, shall be dedicated without compensation. Any percentage required to be dedicated above five per cent shall be compensated at fair market value by the local governing body for the area in which the land is located.

(f) The amount of local contribution required under (e) of this section shall be reduced by a reimbursement to the local governing body of up to 50 per cent by the state; however, if available, federal funds shall reduce the state contribution and if federal funds exceed the amount of the state contribution, the excess over the state contribution inures to the benefit of the local government.

(g) This section does not apply to a subdivision if, under a plan or program other than the formula specified in this section, a park or open space area at least as large as the area required to be dedicated under (a) of this section is provided within the gross area of the subdivision on a permanent basis.

(h) In this section "subdivision" means "subdivision" as defined in AS 40.15.190(2).

* Sec. 2. AS 29.08 is amended by adding a new section to read:

Sec. 29.08.220. DEDICATION OF PARKS AND OPEN SPACE AREAS. AS 29.10.128, relating to dedication of parks and open space areas, applies to home rule cities.

* Sec. 3. AS 07.12 is amended by adding a new section to read:

Sec. 07.12.100. DEDICATION OF PARKS AND OPEN SPACE AREAS. AS 29.10.128, relating to dedication of parks and open space areas, applies to home rule boroughs.

* Sec. 4. AS 29.15.290 is amended to read:

Sec. 29.15.290. APPLICATION OF LAWS GOVERNING FIRST CLASS CITIES. All laws and parts of laws empowering and regulating first class cities on special assessments, public utilities, airports, public service rates, franchises, acquisition and disposition of property, motor vehicles and motor vehicle operators, [AND] schools, and dedication of parks and open space areas, apply to second class cities.

* Sec. 5. AS 29.20 is amended by adding a new section to read:

Sec. 29.20.065. PARKS AND RECREATION AREAS. The board of trustees of a city of the third class may provide for the location, construction, operation and maintenance of parks, trails and playgrounds, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128.

* Sec. 6. AS 29.25.297 is amended to read:

Sec. 29.25.297. PARKS AND RECREATION. The council may provide for the location, construction, operation and maintenance of parks, trails, playgrounds and community centers and the preservation of the scenic and historic resources of the community, subject to the same provisions governing dedications of park and open space areas as are

set out for first class cities in AS 29.10.128.

* Sec. 7. AS 07.15 is amended by adding a new section to read:

Sec. 07.15.727. PARKS AND RECREATION. The second class borough may provide for the location, construction, operation and maintenance of parks, trails and playgrounds in the area outside cities, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128. The exercise of powers under this section in the area outside cities is at the option of the borough and is not subject to the restrictions on acquiring additional powers specified in secs. 720 and 730 - 800 of this chapter.

* Sec. 8. AS 07.17 is amended by adding a new section to read:

Sec. 07.17.022. PARKS AND RECREATION. A third class borough may provide for the location, construction, operation and maintenance of parks, trails and playgrounds in the area outside cities, subject to the same provisions governing dedications of park and open space areas as are set out for first class cities in AS 29.10.128. The exercise of powers in the area outside cities under this section is at the option of the borough and is not subject to the restrictions on acquiring additional powers specified in secs. 720 and 730 - 800 of this chapter.

* Sec. 9. AS 38.05.295 is amended to read:

Sec. 38.05.295. PARKS AND RECREATION AREAS. (a) The commissioner shall establish a policy and prescribe rules and regulations by which parks and recreation areas, including public scenic overlooks and cultural sites, shall be developed and managed in a manner that will best serve the interests of the people of the state. The commissioner may classify public lands as parks, scenic overlooks, cultural sites and recreation areas as long as the general intent of this

chapter is maintained.

(b) The director of the division of parks shall by regulation establish for observance by local governments criteria and guidelines relating to development, preservation, maintenance and operation of parks located or enlarged after July 1, 1971 within home rule and general law cities and organized boroughs of any class. For this purpose and in order to qualify for state aid for parks and open space areas under AS 43.18.010(j) the local governments shall submit at a time and in a form designated by the director an overall plan for park and open space development within the municipality as well as specific plans for individual park and open space projects.

* Sec. 10. AS 43.18.010 is amended by adding a new subsection to read:

(j) During each fiscal year the state shall pay to a city or an organized borough an amount equal to 50 per cent of the nonfederal share of estimated reasonable costs for that year of the development, care, and maintenance of parks and open space areas in accordance with a plan submitted and approved by the division of parks under AS 38.05.-295(b). Funds shall be allocated only for use to further the purposes aided under this section and after the local government applies for, ane makes reasonable efforts to secure available federal assistance for such purposes.

* Sec. 11. AS 07.05.040(a) is amended to read:

(a) In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands, Department of Natural Resources, shall exercise the zoning power by adopting zoning regulations. The provisions of AS 29.10.128(a) and (d) apply to subdivisions proposed within the area of the unorganized borough outside incorporated cities, except that the division of lands shall exercise the responsibilities conferred upon platting boards

under AS 29.10.128(a).

* Sec. 12. This Act takes effect July 1, 1972.

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VOLUME 3

BILLS CONSIDERED

ALASKA LOCAL GOVERNMENT

IN THE SENATE BY HAMMOND

SENATE BILL NO. 37

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to power of organized boroughs to prohibit water pollution."

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

* Section 1. AS 07.15 is amended by adding a new section to read:

Sec. 07.15.370. WATER POLLUTION CONTROL. (a) The assembly of the first and second class borough may by ordinance prohibit pollution of waters wholly or partially within, or bordering, the borough or otherwise under its jurisdiction and may impose and collect fines for violations of an ordinance adopted. Each day on which a violation occurs may be declared a separate violation for which a fine may be imposed and collected.

(b) An ordinance adopted under this section may not conflict with the provisions of state or federal statutes or regulations controlling water pollution or establish standards for determining water pollution which are more stringent than those of state or federal statutes or regulations.

(c) Upon adoption of an ordinance under this section, no general law or home rule city within the borough may exercise within the city the powers conferred in the ordinance, unless the ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power. The exercise of the areawide power is at the option of the borough and is not subject to the restrictions on acquiring additional areawide powers specified in sec. 350 of this chapter.

(d) In (a) of this section "pollution" has the meaning set out

in AS 46.05.230(5) (the Water Pollution Control Act) and "waters" includes those classifications of water bodies set out in AS 46.05.-230(10).

* Sec. 2. AS 07.17.020 is amended by adding a new subsection to read:

(d) The assembly of the third class borough may by ordinance prohibit water pollution as provided for first and second class boroughs in AS 07.15.370. The exercise of the power is at the option of the borough and is not subject to the restrictions on acquiring additional powers provided for other boroughs.

IN THE SENATE BY YOUNG

SENATE BILL NO. 44

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing state grants to organized boroughs and cities for protection of land endangered by flooding or erosion, and otherwise relating to protection of this land."

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

* Section 1. AS 43.18 is amended by adding a new section to read:

Sec. 43.18.300. STATE AID FOR PROTECTION OF ENDANGERED LAND.

(a) An organized borough or a city located outside an organized borough is entitled to state grants to supplement local funds which are expended after July 1, 1971 for costs of protecting endangered land, in the ratio of 75 per cent state funds to 25 per cent local matching funds, as provided in this section.

(b) To qualify for a grant under this section, the governing body shall furnish to the commissioner proof in the form required by him that it has deposited in a local municipal capital project fund separate from other municipal funds and accounts an amount to be utilized solely for costs of protecting endangered land. The amount deposited as a local share may be derived from any source other than the state. In accepting proof of deposit of the local share, the commissioner shall allow as part of the share the reasonable value of in-kind contributions pledged and directly related to payment of the costs of protecting endangered land. Determination of value by the commissioner is final. Upon receipt of satisfactory proof of deposit of the local share in the municipal capital project fund, the commissioner shall provide for

allocation from state appropriations available for the purpose payment in the ratio authorized in (a) of this section.

(c) State money and equal amounts of local money deposited in a municipal capital project fund under this section shall be utilized solely to pay costs of measures intended to prevent or control flooding or soil erosion with respect to endangered land.

(d) The commissioner shall require accounting of money in the municipal capital project fund in the uniform manner set out in the Manual of Governmental Accounting, Auditing and Financial Reporting, 1968, as supplemented, issued by the National Committee on Governmental Accounting.

(e) The endangered land grant account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of each local government's share authorized in this section, such funds as are available shall be distributed pro rata among eligible local governments.

(f) Money in the grant account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(g) The department shall provide an annual report to the legislature respecting grants made under this section.

(h) The department may promulgate regulations to implement this section.

(i) In this section

(1) "commissioner" means the commissioner of natural resources;

(2) "endangered land" means publicly or privately-owned land,

whether developed or not, which in the determination of the governing body and commissioner is subject to a substantial threat or condition of flooding or erosion because of its particular situation in the municipality;

(3) "department" means the department of natural resources;

(4) "governing body" means the governing body of an organized borough or a city of any class located outside an organized borough.

* Sec. 2. AS 07.15.350 is amended by adding a new section to read:

Sec. 07.15.370. LAND PROTECTION. The assembly of the first or second class borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the borough. The exercise of the areawide power conferred in this section is at the option of the borough and is not subject to the restrictions on acquiring additional areawide powers specified in sec. 350 of this chapter.

* Sec. 3. AS 07.17.020 is amended by adding a new subsection to read:

(c) The assembly of the third class borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the borough. The exercise of the areawide power conferred in this subsection is at the option of the borough and is not subject to the restrictions on acquiring additional areawide powers specified for other boroughs.

* Sec. 4. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.134. LAND PROTECTION. The council of a first class city located outside an organized borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the city.

* Sec. 5. AS 29.15 is amended by adding a new section to read:

Sec. 29.15.155. LAND PROTECTION. The board of trustees of a

second class city located outside an organized borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the city.

* Sec. 6. AS 29.20 is amended by adding a new section to read:

Sec. 29.20.065. LAND PROTECTION. The board of trustees of a third class city located outside an organized borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the city.

* Sec. 7. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.245. LAND PROTECTION. The council of a fourth class city located outside an organized borough may by ordinance or otherwise take action it considers necessary to prevent or control damage as a result of flooding or erosion of land within the city.

Offered: 1/27/71
Referred: Local Government

IN THE SENATE BY RAY

SENATE BILL NO. 74

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to power of third class boroughs to incur indebtedness."

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

* Section 1. AS 07.17.020 is amended by adding a new subsection to read:

(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 07.15.010(12) and 07.15.030.

Offered: 1/28/71
Referred: Local Government

BY THE RULES COMMITTEE
BY REQUEST OF THE
LEGISLATIVE COUNCIL

IN THE SENATE

SENATE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act exempting business inventories from property taxes levied by local governments; and providing for an effective date."

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

* Section 1. AS 29.10.336(a) is amended to read:

(a) Property owned by the city or the state; the household furniture of the head of a family or a householder not exceeding $500 in value; <u>business inventories;</u> all property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes; the property of an organization, not organized for business purposes, whose membership is composed entirely of individuals with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of any such organization; and all money on deposit are exempt from taxation.

* Sec. 2. This Act takes effect July 1, 1971.

Offered: 1/28/71
Referred: Local Government

BY JOSEPHSON, CROFT, GROH, RADER, THOMAS

IN THE SENATE

SENATE BILL NO. 82

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the granting of public transit powers to first class cities."

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

* Section 1. AS 29.10 is amended by adding a new section to read:

Sec. 29.10.118. PUBLIC TRANSPORTATION CONSTRUCTION AND MAINTENANCE. The council may provide for the location, construction, purchase establishment, operation and maintenance of public transportation systems including the acquisition and construction of appropriate rights-of-way, and may expend city funds for this purpose.

Original sponsor: Hensley

Offered: 3/26/71
Referred: Rules

IN THE SENATE BY THE JUDICIARY COMMITTEE

HOUSE CS FOR SENATE BILL NO. 117

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to eminent domain powers of fourth class cities."

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

* Section 1. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.335. EMINENT DOMAIN. The council may exercise the powers of eminent domain and declaration of taking in the performance of an authorized city power or function, in accordance with AS 09.55.-250 - 09.55.460. Before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance.

Original sponsors: Hensley and Croft

Offered: 3/26/71
Referred: Rules

IN THE SENATE BY THE RESOURCES COMMITTEE

HOUSE CS FOR SENATE BILL NO. 119

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to historic preservation."

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

* Section 1. AS 41 is amended by adding a new chapter to read:

CHAPTER 35. ALASKA HISTORIC PRESERVATION ACT.

Sec. 41.35.010. DECLARATION OF POLICY. It is the policy of the state to preserve and protect the historic, prehistoric and archeological resources of Alaska from loss, desecration and destruction so that the scientific, historic and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited and evaluated.

Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC AND ARCHEOLOGICAL RESOURCES; LOCAL DISPLAY. (a) The State of Alaska reserves to itself title to all historic, prehistoric and archeological resources situated on land owned or controlled by the state, including tidelands and submerged lands, and reserves to itself the exclusive right of field archeology on state-owned or controlled lands. However, nothing in this chapter diminishes the cultural rights and responsibilities of persons of aboriginal descent or infringes upon their right of possession and use of those resources which may be considered of historic, prehistoric or archeological value.

(b) Although title to historic, prehistoric and archeological resources is in the State of Alaska, local cultural groups may obtain from the state, or retain, for study or display, artifacts and other items of these resources from their respective cultures or areas if the advisory committee created in sec. 110 of this chapter finds that (1) the group has a durable building with weatherproof and fireproof construction and humidity control and other factors necessary to serve as a museum which will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting it. A group retaining such an item or obtaining one from the state shall house it in the museum building and shall make every reasonable effort to assure its safe preservation. If the advisory committee finds that a local cultural group is not properly taking care of an item the group shall return it to the department.

Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES. Upon the recommendation of the Historic Sites Advisory Committee, the governor may declare by public order any particular historic, prehistoric or archeological structure, deposit, site or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or historic site and he may designate as a part of the monument or site as much land as is considered necessary for the proper access, care and management of the object or site to be protected. When an object or site is situated on land held in private ownership, it may be declared a state monument or historic site in the same manner, with the written consent of the owner.

Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONUMENTS

AND HISTORIC SITES. State-owned monuments, sites and other historic, prehistoric or archeological properties owned or purchased by the state are under the control of the Department of Natural Resources and their maintenance shall be covered in the appropriations made to that department. Privately-owned state monuments or historic sites are eligible to receive state support for their maintenance, restoration and rehabilitation if they are kept accessible to the general public and application for support is made in conformity with regulations adopted by the commissioner of natural resources.

Sec. 41.35.050. REGULATIONS. The commissioner of natural resources shall adopt regulations to carry out the purposes of this chapter.

Sec. 41.35.060. POWER TO ACQUIRE HISTORIC, PREHISTORIC OR ARCHEOLOGICAL PROPERTIES. (a) The department, with the recommendation of the Historic Sites Advisory Committee, may acquire real and personal properties that have statewide historic, prehistoric or archeological significance by gift, purchase, devise or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric or archeological significance when it is determined to be necessary for the proper use and administration of the significant property.

(b) If an historic, prehistoric or archeological property which has been found by the department, upon the recommendation of the Historic Sites Advisory Committee, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric or archeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric or archeological character or value. If the

owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.240 - 09.55.460.

Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC AND ARCHEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The state archeologist shall locate, identify and preserve in suitable records information regarding historic, prehistoric and archeological sites, locations and remains. The information shall be submitted to the heads of the executive departments of the state.

(b) Before any public construction or public improvement of any nature is undertaken by the state, or a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the state archeologist may survey the affected area to determine if the area contains historic, prehistoric or archeological values.

(c) If the state archeologist determines that historic, prehistoric or archeological sites, locations or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department in cooperation with the state archeologist has performed the necessary investigation, recording and salvage of the site, location or remains. All investigation, recording and salvage work shall be performed as expeditiously as possible so that no state construction project will be unduly impaired, impeded or delayed.

(d) If in the course of performing public construction or improvements, historic, prehistoric or archeological sites, locations, remains or objects are discovered, the state archeologist shall be notified and his concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the state archeologist

shall survey the area to determine whether the area contains historic, prehistoric or archeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (1) such data exists in the area, (2) the data has exceptional historic, prehistoric or archeological significance, and should be collected and preserved in the public interest, and (3) it is feasible to collect and preserve the data, the department in cooperation with the state archeologist shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible.

(e) If the concurrence of the state archeologist, required under (b) and (c) of this section, is not obtained after 90 days from the filing of a request for his concurrence to proceed with the project, the agency or person performing the construction or improvement may apply to the governor for permission to proceed without such concurrence and the governor may take the action he considers best in overruling or sustaining the state archeologist.

(f) The costs of investigation, recording and salvage of the site shall be reimbursed by the agency sponsoring the construction project.

(g) Notwithstanding (a) and (f) of this section, all actions of the archeologist to stop any project must first be approved in writing by the commissioner of natural resources.

Sec. 41.35.080. PERMITS. The commissioner, with the advice and concurrence of the state archeologist, may issue a permit for the investigation, excavation, gathering or removal from the natural state, of any historic, prehistoric or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings or removals and only

if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the historic, prehistoric or archeological resource involved is one which is, or is located on a site which is, sacred, holy or of religious significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section.

Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any construction, alteration or improvement of any nature is undertaken on a privately-owned, officially designated state monument or historic site by any person, he shall give the department and the state archeologist three months notice of intention to construct on, alter or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under sec. 50(b) of this chapter or undertake or permit the recording and salvaging of any historic, prehistoric or archeological information considered necessary.

Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC OR ARCHEOLOGICAL REMAINS ON PRIVATE LANDS. Before any historic, prehistoric or archeological remains are excavated or removed from private lands by the department or the state archeologist, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court.

Sec. 41.35.110. HISTORIC SITES ADVISORY COMMITTEE. There is created in the Department of Natural Resources the Historic Sites Advisory Committee.

Sec. 41.35.120. COMPOSITION OF COMMITTEE. The committee consists

of the following persons:

(1) the state archeologist;

(2) the state liaison officer appointed under the National Historic Preservation Act of 1966, Public Law 89 - 665;

(3) three persons with professionally relevant backgrounds appointed from the following fields: history, anthropology, paleontology, architecture, geology, archeology, and natural history; and

(4) two persons appointed to represent indigenous ethnic groups.

Sec. 41.35.130. APPOINTMENT OF MEMBERS. Members of the committee are appointed by the governor and confirmed by the legislature meeting in joint session. The members of the committee shall serve at the pleasure of the governor.

Sec. 41.35.140. TERM OF MEMBERSHIP. The term of office for a member of the committee is three years, except for those who are members by virtue of their positions with the state. They serve for as long as they remain in the position by virtue of which they are members of the committee. A member appointed to fill a vacancy serves for the unexpired term of the member he succeeds. Of those members listed under sec. 120(3) and (4) of this chapter, upon initial appointment, one shall serve for one year, two for two years, and two for three years.

Sec. 41.35.150. COMPENSATION. The members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 41.35.160. OFFICERS. At the first meeting of each year, the committee shall elect a chairman from among its members.

Sec. 41.35.170. MEETINGS AND QUORUM. The committee shall meet at least twice a year. Additional meetings may be called by the chair-

man or by petition of at least five members. Five members of the committee constitute a quorum.

Sec. 41.35.180. DUTIES OF THE COMMITTEE. The Historic Sites Advisory Committee shall

(1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric or archeological significance as would justify their acquisition and ownership by the state;

(2) cooperate with the Department of Natural Resources and the state archeologist in formulating and administering a statewide historic sites survey under the National Historic Preservation Act of 1966, Public Law 89 - 665;

(3) review those surveys and historic preservation plans that may be required, and approve properties for nomination to the National Register as provided for in the National Historic Preservation Act of 1966, Public Law 89 - 665;

(4) provide necessary assistance to the governor and the legislature for achieving balanced and coordinated state policies and programs for the preservation of the state's historic, prehistoric and archeological resources.

Sec. 41.35.190. POWERS OF CHAIRMAN. Subject to available appropriations the chairman may, with the concurrence of a majority of the committee, employ necessary personnel and may contract for the services of experts and other persons who may be needed.

Sec. 41.35.200. UNLAWFUL ACTS. (a) It is unlawful for a person to appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric or archeological resources of the state.

(b) It is unlawful for a person to knowingly possess, sell, buy

or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) No person may unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected.

(d) An historic, prehistoric or archeological resource which is taken in violation of this section shall be seized by any person designated in sec. 220 of this chapter wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository.

Sec. 41.35.210. PENALTIES. A person who violates a provision of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of $1,000, or by imprisonment for not more than six months, or by both.

Sec. 41.35.220. ENFORCEMENT AUTHORITY. The following persons are peace officers of the state and shall enforce this chapter:

(1) an employee of the department authorized by the commissioner;

(2) a peace officer in the state;

(3) any other person authorized by the commissioner.

Sec. 41.35.230. DEFINITIONS. In this chapter, unless the context otherwise requires

(1) "commissioner" means the commissioner of natural resources;

(2) "committee" means the Historic Sites Advisory Committee;

(3) "department" means the Department of Natural Resources;

(4) "historic, prehistoric and archeological resources"

include deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state.

Sec. 41.35.240. TITLE OF CHAPTER. This chapter may be cited as the Alaska Historic Preservation Act.

* Sec. 2. AS 38.12 and 38.25 are repealed.

* Sec. 3. AS 44.19 is amended by adding a new section to read:

Sec. 44.19.024. STATE ARCHEOLOGIST AND DUTIES. (a) There is established in the Department of Natural Resources the position of state archeologist. The state archeologist shall be a qualified archeologist who shall serve at the pleasure of the governor.

(b) The state archeologist shall

(1) sponsor, engage in and direct fundamental research into the archeology of the state and encourage and coordinate archeological research and investigation undertaken in the state;

(2) cooperate with the Department of Natural Resources and the Historic Sites Advisory Committee in performing their functions under AS 41.35;

(3) cooperate with the Department of Natural Resources in preparing an inventory of historic, prehistoric and archeological sites in the state;

(4) cooperate with the commissioner of natural resources in reviewing and issuing investigation, excavation, gathering and removal permits;

(5) ensure tha historic, prehistoric and archeological sites are properly reported by persons or agencies engaged in public construction work and protect sites and objects of significance discovered at state sites or discovered during the course of public

construction and encourage the protection of sites and objects discovered during the course of any other construction work;

(6) investigate reported historic, prehistoric or archeological sites and appraise them for any future excavation; and

(7) serve as a central clearinghouse for information on all historic, prehistoric and archeological site excavation in the state.

* Sec. 4. AS 29.10 is amended by adding new sections to read:

Sec. 29.10.223. EXCEPTIONS FOR HISTORIC SITES, BUILDINGS AND MONUMENTS. Exceptions to the regulations provided for in secs. 213 and 219 of this chapter may be made in order to provide for the preservation, mainenance and protection of historic sites, buildings and monuments.

Sec. 29.10.344. EXEMPTION OF HISTORIC SITES, BUILDINGS AND MONUMENTS. In levying, assessing and collecting taxes for school and city purposes, the council or assembly may by ordinance classify and exempt from taxation historic sites, buildings and monuments.

* Sec. 5. AS 29.15 is amended by adding a new section in art. 3 to read:

Sec. 29.15.205. HISTORIC SITES, BUILDINGS AND MONUMENTS. The board of trustees may provide for the preservation, maintenance and protection of historic sites, buildings and monuments.

* Sec. 6. AS 29.20 is amended by adding a new section to read:

Sec. 29.20.065. HISTORIC SITES, BUILDINGS AND MONUMENTS. The board of trustees of a city of the third class may provide for the preservation, maintenance and protection of historic sites, buildings and monuments.

* Sec. 7. AS 29.25 is amended by adding a new section to read:

Sec. 29.25.305. ZONING EXCEPTIONS FOR HISTORIC SITES, BUILDINGS AND MONUMENTS. Exceptions to the zoning ordinances provided for under sec. 300 of this chapter and other ordinances regulating building

requirements and specifications may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments.

* Sec. 8. AS 09.55.250 is amended to read:

Sec. 09.55.250. CLASSIFICATION OF ESTATES AND LANDS SUBJECT TO BE TAKEN. The following is a classification of the estates and rights in lands subject to be taken for public use:

(1) a fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams and permanent flooding occasioned by them, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine, or when, in the judgment of the Department of Natural Resources, Department of Public Works, or the Department of Highways, a fee simple is necessary for any of the purposes for which the department, on behalf of the state, is authorized by law to acquire real property by condemnation;

(2) an easement when taken for any other use;

(3) the right of entry upon an occupation of lands, and the right to take from the land earth, gravel, stones, trees, and timber as may be necessary for a public use.

Introduced: 3/11/71
Referred: Local Government;
Judiciary

BY CROFT, JOSEPHSON
AND GROH

IN THE SENATE

SENATE BILL NO. 159

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to judicial review of municipal tax assessments."

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

* Section 1. AS 29.10.426 is amended to read:

Sec. 29.10.426. JUDICIAL REVIEW. A person aggrieved by an order of the board of equalization may appeal to the superior court for review de novo after he has exhausted his administrative remedy under secs. 369 - 540 of this chapter. <u>If the aggrieved party is contesting the amount of the assessed valuation of property, the superior court shall, by trial de novo, determine the fair market value of the property as of the assessment date. "Fair market value" means the amount a willing buyer would pay and a willing seller accept as the purchase price for the property. Either party may demand a jury trial.</u>

Introduced: 3/24/71
Referred: Local Government

IN THE SENATE BY HAMMOND BY REQUEST

SENATE BILL NO. 189

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to land platting authority."

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

* Section 1. AS 40.15 is amended by adding a new section to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH. The division of lands shall be the platting authority in the area outside organized boroughs and outside cities in the unorganized borough and in the third class borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of secs. 150 - 180 of this chapter. Costs of publication and mailing as well as other costs authorized in sec. 150 of this chapter shall be paid to the division by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division of lands.

* Sec. 2. AS 40.15.070 is amended to read:

Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be subdivided or dedicated is situated within a <u>first or second class</u> borough the proposed subdivision or dedication shall be submitted to the borough planning commission for approval. <u>If the land is situated within a city in the unorganized borough or the third class borough the proposed subdivision or dedication shall be submitted to the city planning commission for approval.</u> The borough planning commission is the platting authority for the <u>first or second class</u> borough, <u>the city planning commission is the platting authroity for the city, and</u>

the division of lands is the platting authority in the remaining areas of the state and third class borough for the change or vacation of existing plats or a portion of such plats, as provided in sec. 75 of this chapter. If the borough or the city does not have a planning commission, the borough assembly or the city governing body, respectively, is the platting authority and the proposed subdivision or dedication shall be submitted to it. No subdivision may be filed for record until it is approved by the platting authority.

* Sec. 3. AS 40.15.140. is amended to read:

Sec. 40.15.140. PETITION. No plat may [SHALL] be altered, amended or otherwise changed or vacated [,] except upon petition of the owners of a majority of the land affected by the alteration, amendment, [OR] change or vacation [,] showing the changes contemplated. Except as otherwise provided by law, no street, alley or public thoroughfare or any part of one may be vacated, except upon petition of the owners of the majority of the front feet of the land fronting upon the part of the street, alley or public thoroughfare sought to be vacated. The petition shall be filed with the clerk of the platting authority having jurisdiction [BOROUGH], requesting that the plat, addition or subdivision be amended, replatted or vacated, or that the street, alley or public thoroughfare be vacated. The petition shall be accompanied by a plat, draft or a copy of the existing plat, showing the proposed amendment, replat or vacation.

Introduced: 3/25/71
Referred: Local Government

IN THE SENATE BY GROH

SENATE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to boards of equalization within organized boroughs; and providing for an effective date."

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

* Section 1. AS 07.15.320 is amended by adding a new subsection to read:

(e) The borough assembly sits as a board of equalization for the purpose of hearing in the manner provided for first class cities any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of that number of members of the assembly over and above the number required for a quorum to transact business and is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings in first class cities as may be adopted by ordinance, including but not limited to quorum, and voting requirements.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

IN THE SENATE BY THOMAS

SENATE BILL NO. 260

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to exemptions from taxation of real and personal property."

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

* Section 1. AS 29.10.336 is amended by adding new subsections to read:

(e) The term "property used exclusively for nonprofit charitable or educational purposes" includes the following types of property owned by a nonprofit charitable or educational organization:

(1) all real or personal property of a sheltered workshop or a retail outlet of that workshop, including its inventory; as used in this subsection, "sheltered workshop" means a nonprofit facility established and operated by a private organization, agency or institution which provides disabled or severely handicapped individuals (whether of a physical, mental or emotional nature) with vocational training, occupational rehabilitation activities of an educational or therapeutic nature, employment opportunity or employment, even if remuneration is received by the individual;

(2) notwithstanding the provisions of (c) of this section, real or personal property of a retail store dealing exclusively in donated inventory, or inventory supplied by a sheltered workshop, where the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of inventory sold to the general public is used to support a welfare program, or to support vocational training or employment for disabled or severely handicapped individuals described in (1) of this subsection.

Introduced: 2/3/72
Referred: Local Government

IN THE SENATE BY MERDES

SENATE BILL NO. 316

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the issuance of revenue anticipation notes by political subdivisions of the state."

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

* Section 1. AS 37.30 is amended by adding new sections to read:

ARTICLE 2. REVENUE ANTICIPATION NOTES.

Sec. 37.30.100. BORROWING IN ANTICIPATION OF REVENUE. A political subdivision of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 37.30.110. ISSUANCE OF NOTES. The governing body of a political subdivision may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the political subdivision may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

Sec. 37.30.120. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 per cent of the amount of revenues estimated to be collected

in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

Sec. 37.30.130. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a political subdivision, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. These notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the political subdivision before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the political subdivision may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 37.30.140. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the political subdivision issuing them.

Sec. 37.30.150. CONSTRUCTION. AS 29.10.204 and AS 29.15.280 may not be construed to conflict with secs. 100 - 140 of this chapter.

Introduced: 2/14/72
Referred: Local Government

IN THE SENATE BY MERDES

SENATE BILL NO. 342

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act concerning issuance of municipal bonds for local improvements."

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

* Section 1. AS 29 is amended by adding a new chapter to read:

CHAPTER 51. LOCAL IMPROVEMENT BONDING ACT.

Sec. 29.51.010. LOCAL IMPROVEMENT. (a) The term "local improvement", as used in this chapter, has the meaning given the term in AS 29.10.246.

(b) The provisions of this chapter are not mandatory. A city having charter provisions for bonding improvement assessments and selling bonds may follow those provisions or the provisions of this chapter or of any other statute.

Sec. 29.51.020. INSTALLMENT PAYMENT OF ASSESSMENTS. (a) When a city council causes a local improvement to be made within the city and has assessed the cost of the improvement to the area benefited by or liable for the improvement, according to the provisions of the charter or ordinances of the city, the owner of any property assessed for the improvement in the sum of $25 or more, at any time within 10 days after notice of the improvement is first published, may file with the clerk of the city a written application to pay

(1) the whole of the assessment in installments; or

(2) if part of the assessment has been paid, the unpaid balance of the assessment in installments.

(b) At the option of the city, written applications may be filed

after 10 days after notice of assessment is first published.

Sec. 29.51.030. EDUCATIONAL, RELIGIOUS, FRATERNAL OR CHARITABLE ORGANIZATIONS AND PUBLIC CORPORATIONS. An educational, religious, fraternal or charitable organization or public corporation owning property assessed for its proportionate share of the cost of constructing a local improvement as defined in sec. 10 of this chapter has the same right to bond that assessment and having bonded the assessment is subject to the same duties and liabilities as a natural person bonding an assessment. However, the limitations on the amount of an assessment that may be bonded do not apply to these organizations and corporations, which are permitted to bond to the full extent of the assessments.

Sec. 29.51.040. CONTENTS OF APPLICATION. The written application shall state that the applicant and property owner waives all irregularities or defects, jurisdictional or otherwise, in the proceedings causing the improvements to be made for which the assessment is levied and in the apportionment of the cost of the improvement. The application shall provide that the property owner agrees to pay the assessment in 20 semiannual installments, with interest at six per cent a year on all assessments which have not been paid. The application shall also contain a statement, by lots or other convenient description, of the property of the applicant assessed for the improvement.

Sec. 29.51.050. APPLICATIONS REFUSED. No application as provided in sec. 40 of this chapter may be received and filed if the amount remaining unpaid upon the assessment together with the unpaid balance of a previous assessment for improvements against the same property equals or exceeds the valuation of the property.

Sec. 29.51.060. RECORD OF APPLICATIONS. The city clerk shall

(1) keep all applications filed under sec. 20 of this chapter in a convenient manner for examination; the applications received for each improvement shall be kept separate;

(2) enter in a book kept for that purpose, with a separate section for each improvement, the date of filing of each application, the name of the applicant, a description of the property and the amount of the assessment, as shown on the application.

Sec. 29.51.070. BOND LIEN DOCKET. After expiration of the time for filing applications, the clerk shall enter in a docket kept for that purpose, with separate headings for each improvement, by name or number, a description of each lot or parcel of land or other property against which the assessment is made, with the name of the owner and the amount of the unpaid assessment. This docket shall be a lien docket for taxes assessed and levied by the city and for the amount of the unpaid assessments docketed, with interest at the rate of six per cent a year, against each lot or parcel of land or other property, until the assessments and interest are paid. The unpaid assessments and interest are a lien on each lot or parcel of land or other property in favor of the city and these liens shall have priority over all other liens and encumbrances.

Sec. 29.51.080. ISSUANCE OF BONDS. When a bond lien docket is made up as provided in sec. 70 of this chapter, the city may, in accordance with the provisions of AS 29.50.020 authorize the issuance of bonds in convenient denominations not exceeding $5,000 each, equal to the total amount of unpaid assessments for improvements, for which applications to pay under this chapter have been filed, as shown by the bond lien docket.

Sec. 29.50.090. FORM OF BONDS. The bonds shall, by their terms, be the general obligations of the city issuing them, be in serial form

with definite maturity dates determined by the city council, and shall mature in annual or semiannual installments. If the city council elects, the portion of the particular issue of bonds that matures after one year from issue date may be made subject to redemption in numerical order on the interest dates on or after the first year from issue date, as the city council shall designate. The first installment of principal of each issue of these bonds shall become due and payable not later than two years, and the last installment not later than 12 years, from the date of issue of the bonds.

Sec. 29.51.100. AMOUNT OF INSTALLMENTS. The installments of principal of the bonds shall be equal in amount, or the combined annual installments of principal and interest on the bonds shall be in sums that will permit a substantially uniform annual tax levy for the retirement of the principal and payment of the interest on the bonds as they become due. Fractional bonds in denominations of less than $500 comprising part of an issue shall be numbered with the number "1" and shall be included in the amount of the first installment of maturing bonds. The interest on the bonds and the amounts of the installments of maturing bonds shall be included in the annual budget of the city, and there shall be deducted in the budget an amount that the city council conservatively estimates will be received from payments of the principal and interest on installments of assessments pertaining to a particular bond issue, and from receipts from sales and rentals of property acquired by the city pursuant to the assessments, during the year for which the levy is made.

Sec. 29.51.110. INTEREST RATE. The bonds shall be payable in lawful money of the United States, and bear interest payable semiannually at a rate not to exceed six per cent per year, the interest obligations to be evidenced by coupons attached to the bonds. Notice stating that

certain bonds are to be taken up and canceled upon optional payment dates, and that the interest shall cease upon the interest payment date upon which the bonds are called, shall be published in a newspaper printed and published, and of general circulation, in the borough where the bonds are issued, at least 15 days prior to cancellation date. After that date interest upon the bonds designated in the notice shall cease.

Sec. 29.51.120. EXECUTION AND REGISTRATION OF BONDS. The bonds, before issuance, shall be executed with either the autograph or facsimile signature of the mayor or other executive head of the city countersigned by the finance officer or clerk, and authenticated by the seal of the city attached, either manually or printed, and shall be registered consecutively, by number and denomination of each, in a book to be kept by the clerk, to be known and designated as the "Improvement Bond Register". Each of the bonds shall have distinctly and plainly inscribed or printed on its face the registered number of the bond and the words "Improvement Bond", with the name of the city issuing it.

Sec. 29.51.130. SALE OF BONDS. The bonds shall be advertised for sale and sold for the highest price obtainable, but for not less than par and accrued interest. The proceeds shall be paid by the purchaser to the city treasurer and the par value credited to the respective improvement fund for which the bonds are issued. The accrued interest and premium accruing from the sale of the bonds shall be credited to the general fund of the city the fund from which interest is paid on improvement warrants, or to the improvement bond sinking fund, as the city council shall direct.

Sec. 29.51.140. PAYMENT OF INSTALLMENTS. There shall be due and payable semiannually for 10 successive years, to the city treasurer by

the owner of each lot or parcel of land assessed for any improvement, whose application to pay the cost of the improvement by installments has been filed as provided in secs. 20 - 40 of this chapter, five per cent of such cost assessed against the property of the owner, as appears by the bond lien docket described in sec. 70 of this chapter with the amount of one-half of one year's interest at not to exceed six per cent per annum on unpaid assessments or installments. The first payment shall be due and payable at the expiration of six months from the date of assessment in the bond lien docket, and subsequent payments at the expiration of each semiannual period thereafter.

Sec. 29.51.150. PROCEDURE FOR COLLECTION ON DEFAULT. Should the owner neglect or refuse to pay installments under sec. 140 of this chapter as they become due and payable for a period of one year, then the council may, by reason of the neglect or refusal to pay the installments, and while the neglect and refusal to pay continues, pass a resolution giving the name of the owner then in default in the payment of the sums due, either principal or interest, together with a description of the property upon which the sums are owing and declaring the whole sum, both principal and interest, due and payable at once. It may then proceed at once to collect all unpaid installments and to enforce collection with all penalties, in the same manner in which delinquent street and sewer assessments are collected, pursuant to the terms of the city charter.

Sec. 29.51.160. RECEIPTS AND ENTRIES ON LIEN DOCKET. When installments and interest on any assessment in the bond lien docket are due, the city clerk shall make the proper extensions of installments and interest on the bond lien docket and turn them over to the city treasurer. The treasurer then shall notify the property owner

that the installments are due and payable, but a failure of any owner to receive the notice shall not prevent collection of the installment as provided in sec. 150 of this chapter. The city treasurer shall issue a receipt to the person paying the installments and interest, and shall file duplicates of the receipts with the clerk. When the treasurer returns the bond lien docket, the recording officer shall make the proper entries on the bond lien docket showing the amount of each payment and the date made.

Sec. 29.51.170. RIGHT OF OWNER TO PREPAY BALANCE AND DISCHARGE LIEN. At any time after issuance of the bonds, any owner of any property against which the assessment is made and lien docketed may pay into the city treasury the whole amount of assessment for which the lien is docketed, together with the full amount of interest and costs accrued to date of payment. Upon producing to the clerk the receipt of the city treasurer, the clerk shall enter in the lien docket opposite the entry of the lien the date of the payment and that the lien is discharged.

Sec. 29.51.180. SEPARATE FUNDS AND ACCOUNTING. A city treasurer receiving funds accruing by virtue of this chapter shall keep the funds and their account separate and apart from other city funds. The amount of the funds paid on account of installments, and interest on unpaid installments, shall be placed to the credit of funds to be known and designated as "improvement bond sinking fund" and "improvement bond interest fund". The amount placed to the credit of the improvement bond sinking fund shall be deposited in the bank that will pay the highest rate of interest, or be invested in or used for the purchase of improvement bonds of the city at par. In the purchase of improvement bonds, the accrued interest shall be paid out of the improvement bond interest fund, and all interest received by the treasurer on

account of coupons due shall be placed to the credit of the improvement bond interest fund. Interest due on improvement bonds shall be paid out of the improvement bond interest fund. All bonds purchased by a city shall be held by the city treasurer as a sinking fund, and shall be disposed of by direction of the city council when required for the redemption of bonds previously issued, as they become due and payable.

Sec. 29.51.190. PAYMENTS ENTERED ON LIEN DOCKET. Entries of payments of installments, interest and costs, made under this chapter, shall be made in the lien docket as they are received, with the date made, and the payments made and entered shall discharge the lien to the amount of the payment and from the date made.

Sec. 29.51.200. REDEMPTION PROCEDURE. At any time after bonds issued by virtue of this chapter become payable, the city may redeem bonds. It shall redeem them consecutively by number of the bonds, commencing with number one of the bonds. It shall give notice of the readiness of the city to redeem by publication in some newspaper published and having a general circulation among its subscribers in the city once each week for three successive weeks, giving the number of bonds which will be redeemed, and the time at which redemption will be made. After the time so fixed for redemption, no interest shall accrue or become payable on the bonds notified for redemption.

Sec. 29.51.210. SHORT TITLE. This chapter may be cited as the Local Improvement Bonding Act.

Introduced: 3/3/72
Referred: Local Government

IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST

SENATE BILL NO. 363

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for boroughs in the unorganized borough; and providing for an effective date."

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

* Section 1. AS 07 is amended by adding a new chapter to read:

CHAPTER 4. BOUNDARIES AND ORGANIZATION OF BOROUGHS IN THE UNORGANIZED BOROUGH.

ARTICLE 1. BOUNDARIES, ADMINISTRATION AND INCORPORATION.

Sec. 07.04.010. BOUNDARIES. By the 10th day following the convening of the first session of the Eighth Legislature, the Local Boundary Commission shall propose to the legislature a division of the unorganized area of the state into unorganized boroughs. The Local Boundary Commission may propose adjustments to the boundaries of existing boroughs to the extent necessary to secure conformity with the standards for borough boundaries set forth in the statutes and in the Constitution of the State of Alaska. A proposed adjustment of existing boundaries shall provide for those transitional matters the commission considers necessary or appropriate. The boundaries proposed by the Local Boundary Commission become effective 45 days after presentation or at the end of the session whichever is earlier, unless disapproved by resolution concurred in by a majority of the members of each house. The proposed division is not subject to modification by the legislature as an alternative to disapproval, and if disapproved by the legislature the proposed division made in accordance with this section is of no effect.

Sec. 07.04.020. ADMINISTRATION. Unorganized boroughs shall be administered by the Department of Community and Regional Development as prescribed by the legislature.

Sec. 07.04.030. ADVISORY COUNCIL. In each unorganized borough the lieutenant governor, within 60 days of the establishment of unorganized boroughs in the manner provided in sec. 10 of this chapter shall provide for election of an advisory council of 11 members. The council may participate in an advisory capacity in the development and implementation of state programs and projects relating to the borough. Elections of council members shall be held every four years.

Sec. 07.04.035. COUNCIL MEMBERSHIP. At the time of election and during their tenure advisory council members shall be qualified voters of the state and residents of the borough. A vacancy on the advisory council shall be filled by a person qualified for election to the advisory council and selected by majority vote of the remaining members of the council. If a majority of seats on the advisory council are vacant concurrently, the lieutenant governor shall fill the vacancies by appointment of persons qualified for election to the advisory council.

Sec. 07.04.040. INCORPORATION. A percentage, determined in accordance with AS 07.10.020(8), of the qualified voters of an unorganized borough may petition for organization of the borough as a borough of the first, second or third class in the manner provided in AS 07.10 and 07.17, except that the petition need not include matter relating to boundaries.

ARTICLE 2. HOME RULE CHARTERS.

Sec. 07.04.050. ADOPTION OF CHARTER. An unorganized borough established under this chapter may adopt a home rule charter in the manner prescribed by AS 29.40.010 - 29.40.030 and AS 29.85.110(a) - (d),

except that the advisory council elected in accordance with sec. 30 of this chapter shall perform the duties assigned to city councils, and except that the charter commission shall consist of 11 members. Vacancies on the charter commission shall be filled in the same manner as vacancies on the advisory council.

Sec. 07.04.060. ORGANIZATION. The charter commission shall initiate organization of the borough in accordance with the terms of the charter by submission of the charter to the Department of Community and Regional Development. The charter shall be submitted within one year of the first meeting of the commission. The department shall review the charter in light of the circumstances of the particular borough and, within 120 days from receipt shall transmit the charter, together with its findings and recommendations, to the Local Boundary Commission.

Sec. 07.04.070. HEARING. The Local Boundary Commission shall hold at least one hearing in the area proposed to be organized for the purpose of hearing public comment on the charter.

Sec. 07.04.080. LOCAL BOUNDARY COMMISSION DETERMINATION. The Local Boundary Commission, within 90 days from receipt of the charter and the recommendations and findings of the Department of Community and Regional Development, shall determine whether the charter meets standards for organization established by the laws and the Constitution of the State of Alaska and by regulations adopted by the commission.

Sec. 07.04.090. REJECTION OF CHARTER. If the Local Boundary Commission determines that the charter fails to meet the standards for organization it shall reject the charter stating in writing its reasons for the rejection.

Sec. 07.04.100. AMENDED CHARTER. A charter commission, within 60 days of rejection, may prepare and submit to the Department of

Community and Regional Development an amended charter fairly meeting the stated objections to the original charter. The amended charter shall be evaluated in the same manner as the original charter. No more than one original and one amended charter may be submitted within one 12 month period.

Sec. 07.04.110. RATIFICATION OF CHARTER. If the Local Boundary Commission determines that the charter meets the standards for organization it shall notify the lieutenant governor. As soon thereafter as practicable the lieutenant governor shall provide for an election in the borough on the question of whether or not the charter is ratified and for election of the officers provided for in the charter. The election shall be preceded by publication and posting of the proposed charter by the lieutenant governor substantially in the manner provided for other charter elections in AS 29.85.150.

Sec. 07.04.120. CERTIFICATION OF RESULTS. If a majority of the votes cast by the qualified voters of the borough are against ratification the lieutenant governor shall so certify and shall certify that the charter is defeated. If a majority of the votes cast by the qualified voters on the question are in favor of ratification the lieutenant governor shall so certify and declare that the borough in which the election was held is an organized borough and a municipal corporation in accordance with the terms of the charter. The lieutenant governor shall also certify the names of those candidates who received the greatest number of votes for the offices established by the charter.

Sec. 07.04.125. VOTERS, ELECTIONS AND COSTS. (a) A person is qualified to vote in a borough election authorized in this chapter if he is qualified to vote in state elections and if he is a resident of the borough.

(b) The lieutenant governor shall supervise elections under this

chapter as provided for supervision of other borough elections under AS 07.10.120(d).

(c) The state through the office of the lieutenant governor shall assume the costs of elections and charter preparation under this chapter.

* Sec. 2. Nothing in this Act may be construed to affect any organization petition pending on the effective date of this Act. All such petitions shall be acted upon in the manner provided by law in effect prior to the effective date of this Act.

* Sec. 3. AS 07.05.010 and AS 07.05.040 are repealed.

* Sec. 4. This Act takes effect July 1, 1972.

Introduced: 3/6/72
Referred: Local Government,
State Affairs

IN THE SENATE BY THE JUDICIARY COMMITTEE

SENATE BILL NO. 371

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the incorporation of boroughs; and providing for an effective date."

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

* Section 1. AS 07.10 is amended by adding a new section to read:

Sec. 07.10.115. APPROVAL BY LEGISLATURE. If the Local Boundary Commission accepts the petition, and before an election under sec. 120 of this chapter, the commission shall present the proposed borough incorporation to the legislature during the first 10 days of a regular session. The incorporation shall be approved by the legislature 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

* Sec. 2. AS 07.10.120(a) is amended to read:

(a) Date of election. Upon the approval of the proposed incorporation by the legislature, the Local Boundary Commission [IF THE LOCAL BOUNDARY COMMISSION ACCEPTS THE PETITION, IT] shall immediately notify the lieutenant governor of its action and shall furnish him with such information on the proposed incorporation as he requires. Within 30 days after the receipt of his notification, the lieutenant governor shall issue an order that an election be held within the proposed organized borough to determine the question of whether the qualified voters of the proposed organized borough desire to be incorporated; and if so, to elect members of the first assembly of the borough, the borough chairman, and the members of the first school

board, and to determine whether the borough shall have an appointed borough manager or an elected borough chairman. The date of the election specified by the lieutenant governor in the order shall be not less than 30 nor more than 90 days after the date of the order of election. The lieutenant governor shall also specify in the election order the dates during which petitions for nominations may be filed with him.

* Sec. 3. AS 44.19.260(a) is amended by adding a new paragraph to read:

(5) present to the legislature during the first 10 days of a regular session proposed borough incorporations.

* Sec. 4. Notwithstanding the provisions of AS 07.10.115, with respect to any borough proposed for incorporation after February 15, 1972, and before an election under AS 07.10.020, the Local Boundary Commission shall submit the proposed borough incorporation to the legislature.

* Sec. 5. This Act takes effect February 15, 1972.

CSSB 113 & CSHB 208 -- THE PROPOSED REVISED MUNICIPAL CODE*

Attachments Prepared by Direction of the Senate and House Local Government Committees Acting Jointly

a) Comparison of CSSB 113 (CSHB 208) and Existing Municipal Law

b) Comparison of CSSB 113 (CSHB 208) and SB 113 (HB 208)

Foreword and Synopsis of Attachments

The need for revision of the maze of local government laws of the state, most of them in the case of cities dating back to territorial days, has long been recognized by the legislature. By concurrent resolution adopted in 1963 the Third Legislature characterized the bulk of state law relating to cities as "disjointed" and not serving the best interest of the state. After a two-year revision effort conducted by the Local Affairs Agency, the Department of Law, and the Legislative Affairs Agency, a proposed revised code was introduced into the First Session of the Fourth Legislature and since then has been continually before the legislature in various modified forms of the original bill.

This year, following two years of preparation and six years of review and revision by legislative committees as well as by the Alaska Municipal League, the public through hearings, municipal and

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* The provisions of CSSB 113 and CSHB 208, like those of SB 113 and HB 208, are identical; for convenience, the reference to the proposed municipal code is made as CSSB 113, which is the printed and distributed bill.

school officials, staffs of the legislative and executive branches of the government, and others, the presentation of CSSB 113 marks the first time the proposed code has reached the floor of either house. It does so after consideration by joint deliberation of the Senate and House Local Government Committees. Its passage in the current session offers the opportunity for the same legislature which enacts it to observe its practical operation and make any changes it may deem warranted during the second session.

This code is based on a proposed draft submitted by the Alaska Municipal League and prepared by a League committee comprised of municipal attorneys and administrators; the League draft in turn is based on earlier versions of the proposed code but reflects extensive updating and adjustment of provisions to emphasize a technical revision rather than large-scale substantive changes in existing areas of law, particularly in terms of relationships of boroughs and cities and local governing bodies and school boards.

Like any overall revision of titles of the Alaska Statutes, of course, the code incorporates changes from existing law both in form and in substance, albeit the substantive changes are relatively few considering the scope of the revision and the technical changes made. Among the most significant substantive changes appear to be the following. The code

1) provides for two classes of general law cities rather than four; p. 8, 27-29 & p. 9, 1 (transition: p. 4, 19-29 & p. 5, 1-3)

2) makes clear which provisions of the code apply to home rule local governments and which do not apply; a notable

page 7, line 19-29 and page 8, lines 1-24

example of the merit of this approach is the basic provision outlining school board and local assembly or council relationships; the proposed code retains the substance of the provisions (sec. 29.33.050) virtually as they appear under present law (AS 07.15.330) but does not apply them to home rule governments; the provisions under present law have been the source of much controversy and pending litigation as to their applicability to home rule governments;

3) authorizes cities and boroughs to permit, on vote of the people, exemptions from property taxes in addition to those exemptions now required by law or already permitted on an optional basis by law (general law cities and, arguably, home rule cities, do not have such authority under present law); page 76, lines 18-20 status of existing exemptions: page 77, line 21-23

4) expressly authorizes use taxes as correlatives to sales taxes, which still continue to require voter approval; authorizes borough collection and refund of city sales taxes as well as city property taxes, the latter now being required to be collected by boroughs under present law, page 93, lines 7-10 page 93, lines 27-29 & page 94, line 1

5) establishes uniform fiscal years and practices for assessing, levying and collecting property taxes for all municipalities; page 71, lines 3-5 page 75, lines 7-12 & page 92, lines 20-25

6) revises existing cumbersome special assessment laws and permits levy of special assessments against governmental units; page 101, line5 page 101, lines 11-13

7) authorizes differential property tax zones within cities to allow for different services or different levels of services than are provided generally within a city; page 92, lines 26-29

8) provides for general law cities within general law boroughs to levy sales or use taxes upon the same tax sources as are levied upon by the borough; page 93, lines 27-29

9) expands eligibility for organization grants to second class cities newly incorporating or reclassifying to first class status and assuming school functions (outside boroughs); page 4, line 28

10) provides that the terms of office of city, borough and school board officials are two years but that any local government may by ordinance choose otherwise and provide different terms not exceeding four years (three years for school boards, as under present law); terms of incumbents are not affected, however; page 17, line 27 page 25, line 28 page 29, line 7

11) sets the date of the regular municipal election at the same time as the date of the state general election (i.e. on the Tuesday after the first Monday of November); page 124, lines 14-19 same as 10) above

12) makes every local voter registered to vote in state elections eligible to vote in any municipal election, without being required also to meet separate municipal registration requirements; if not registered to vote with the state, he may vote in local elections upon meeting the local registration requirements if any; page 35, line 27 page 124, line 4

13) adds garbage and solid waste and water pollution control powers to the existing categories of powers which second class boroughs may exercise in the borough area outside cities without special voter approval; page 60, lines 6-7

14) gives cities authority to adopt and enforce building, housing and related codes within the cities rather than conferring such authority upon a borough as part of its required areawide planning, platting and zoning powers, as has been the interpretation under present law; page 63, lines 14-17

15) requires no election in general law cities and boroughs to sell municipal revenue bonds unless the local government chooses by ordinance to require an election. page 98, line 5

The fundamental change represented by the proposed code is technical in that it is a reorganized, clarified, and updated body of municipal law and a vastly improved framework within which to meet the legislative needs of municipalities as they may develop. Not the least of the proposed code's advantages is that it takes a body of law referred to probably as much or more than any other title in the Alaska Statutes and renders it far more intelligible for municipal officials as well as for the citizens whom it so directly affects.

The following summaries set forth in more detail comparisons of CSSB 113 and CSHB 208 and existing law and comparisons of CSSB 113 and CSHB 208 with the bills as first introduced.

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND EXISTING MUNICIPAL LAW

INTRODUCTION

Senate Bill 113, the current version of the revised municipal code, is an entire recodification of the laws relating to cities and boroughs now found in Titles 7 and 29. Like other reorganized and updated statutory titles, it incorporates changes from existing law both in form and in substance.

The revision was directed by the 1963 Legislature, which noted that the bulk of law relating to cities (Title 29) was a disjointed product of the territorial period. Addition of the Borough Act as a separate title in 1961 (Title 7) further confused the municipal law area.

In 1963 and 1964, the Local Affairs Agency, Department of Law and the Legislative Council prepared the first draft of legislation combining and attempting to reconcile the provisions of Titles 7 and 29. The revision was introduced as SB 101 in 1965 and was the subject of widespread hearings around the state, committee deliberations, and further revision.

Revised versions of SB 101 were introduced into the legislature in 1966, 1967 and 1969.

SB 113, the basis of the current proposal, represents a thorough review by the Alaska Municipal League and governmental agencies at the municipal and state levels. The League felt that revision should be primarily technical and should not attempt to solve the substantive problems existing in two areas, that of relations between cities and boroughs and that of relations between schools and general government.

Accordingly, the bill in these areas is substantially the same as existing law, with some exceptions as noted further (see references on pages 6, 7, 9 and 12 - 14).

It is virtually impossible to detail all of the changes that have taken place between the code and existing municipal law, but this summary will explain the major impact of the revision. It takes into account changes made after joint deliberations of the Senate and House Local Government Committees which resulted in CSSB 113. These changes between CSSB 113 and SB 113 are also separately treated in an attachment following this summary.

Chapter 3. The Unorganized Borough

The law relating to the unorganized borough is unchanged. The present provisions of Title 7 granting authority to the division of lands to adopt zoning regulations for federal lands in the unorganized borough at the request of the Secretary of the Interior and only for purposes of facilitating federal land sales in the unorganized borough is placed in Title 38 (Sec. 6 of the proposed Act).

Chapter 8. Classification of Municipalities (i.e. Cities and Organized Boroughs)

One of the most significant changes is the change from four classes of cities to two classes of cities. The primary difference in the revision between the first and second class cities is that the first class city has the school function and has the power to assess, levy and collect a general property tax while the fourth class city has neither of these powers. Under present law, first, second and third class cities all have these powers, while fourth class cities do not. A population minimum of 400 persons has been set as the number

necessary to incorporate a first class city under the code, as in present law. The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the proposed Act. Existing second and third class cities of 400 or more persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given the option of becoming either first class or second class, depending upon their abilities and desires, as assessed by the local boundary commission and subject to legislative review. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020). The code provides for reclassification of cities and boroughs to a higher class. Upon reclassification of a third class borough to a second or first class borough the borough may retain a combined assembly-school board or may separate the functions between an assembly and a board, depending upon the wishes of the voters (Sec. 29.08.040).

page 4
line 19-29
page 1, line 26
page 4, line 5
page 8, line 27
page 8, line 29
page 3, line 16

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough (Secs. 29.13.010 - 29.13.080). Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections of the code which are specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections

page 5, line 6
page 7, line 9
page 7

themselves contain a specific reference making them applicable to home rule municipalities (Sec. 29.13.100). page 7, line 14

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized (Secs. 29.18.050 - 29.18.110). page 9, line 20 page 11, line 23 The election of the first slate of officers is separated from the question of incorporation itself.

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities incorporating after the code takes effect. Organizational money grants based on an allocation of $10 per voter are allowed the newly incorporating boroughs and cities of all classes, other than unifying or consolidating municipalities. A minimum grant of $25,000 is authorized for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180). page 14, line 28

Under the revised code boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries. (Secs. 29.18.190 - 29.18.200). page 15, line 19 page 16, line 1 Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code provisions, consistent with the best interests of the state.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' election dates and terms of office are changed to conform to the date of state general elections, but terms of office may be varied by local ordinance so as to provide either staggered or simultaneously expiring terms up to four years (Secs. 29.23.040, page 17, line 27 page 25, line 28 page 29, line 7 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (Sec. 29.28.010). page 35, line 5

The executive power has remained essentially the same except that the veto power of borough chairmen and mayors of first class cities has been broadened and clarified. In the past, there has been a question of whether a veto could be used for motions and other actions of the assembly or council. It is clearly spelled out that they may be.

Additionally, a new authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the only power the assembly or council has is to approve or disapprove the total school budget, and the chairman or mayor may only veto that which the assembly or council has power to enact) (Secs. 29.23.170 and 29.23.270). page 24, line 28 page 27, line 20 The mayor of a second class city is a member of the council and has no veto power (Sec. 29.23.270(b)). page 27, line 28

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.-23.270). The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

A provision of present law applying only to first class cities and requiring written examination of police officer applicants on laws and ordinances, the examination to be graded by the council, is not retained in the code.

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). Election sections for election of borough assemblymen in the borough area outside cities are permitted, as under present law, with sections to be of approximately equal population (Sec. 29.23.100).

Utility boards elected by the voters or appointed by the municipal executive and confirmed by the governing body are permitted for boroughs and cities (Sec. 29.23.340). (Elected boards only are authorized to general law municipalities under existing statutes.)

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding four years authorized by local ordinance, and local governing bodies are authorized to provide for centralized purchasing of those school supplies and equipment which are of a kind used by municipal departments (Sec. 29.-

page 43, line 19
In addition, the code makes clear that Sec. 29.33.050 setting out school board-governing body relationships is not intended to apply to home rule municipalities. There is uncertainty whether the same provisions as they appear in present law apply to home rule governments.

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23-410 - 29.23.480).
page 31, line 16
page 32, line 23

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, a financial report, and reports relating to long-term debt as already required under AS 44.19.205. The financial report takes the form of the annual audit for boroughs and first class cities, but second class cities may submit a statement of income and expenditures. Furnishing the reports is made a condition of receipt of authorized shared revenues under AS 43.18 (Sec. 29.23.560).
page 33, line 25
page 34, line 6-10

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law (Sec. 29.28.020).
page 35, line 21
Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years for borough and city governing bodies, and three years for school boards (the maximum term permitted under present law)

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). page 35, line 27 Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.28.040). page 36, line 8

Assemblies and councils are required to provide by ordinance for election appeals. If the appeal is successful, the assembly or council bears the cost; if unsuccessful, the contestant must pay (Sec. 29.28.-050). page 36, line 8

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of these powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110). page 37, line 4 page 40, line 18

The section on recall has been changed to eliminate the successor running at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250). page 40, line 29 page 43, line 1

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) assessment and collection of taxes, (2) education, and (3) planning, platting and zoning. Under current law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the new code broadens this to include the collection of use

and sales taxes authorized by the voters (page 43, line 19 Sec. 29.33.030).

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the placing of power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than the boroughs as part of the areawide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, boroughs now exercising the powers within cities may continue to do so upon agreement to that effect between a city and a borough; if there is no agreement, the city is required to exercise the powers within the city and the borough now exercising the powers is required to continue doing so outside the city. Areawide borough exercise of the powers may subsequently be acquired through transfer by the cities or by vote of the people (page 63, lines 24-29 Sec. 29.48.025). (Present borough law has been interpreted by the Attorney General's office to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under existing laws relating to acquisition of additional areawide powers, it is unclear whether second class boroughs may, like first class boroughs, acquire additional areawide powers by transfer from cities. The revision explicitly authorizes this method. Also, the Local Affairs Agency is no longer required to pass upon the acquisition

of additional areawide powers. In both the revision and present law, additional areawide powers require approval by a majority of the borough voters (Secs. 29.33.250 - 29.33.290). page 54, line 7 page 54, line 25

Chapter 38. Borough Powers and Duties in the Area Outside Cities

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.-010). page 55, line 27

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.-38.020), except with respect to certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law. Acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency. page 56, line 4 page 59, line 26

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged.

Chapter 43. Powers of Cities Outside Boroughs

Authority is continued for cities outside boroughs to assess, levy and collect property and sales taxes. Use tax authority is also conferred. Taxes are to be assessed, levied and collected in the same manner as set forth for boroughs in the code.

First class cities outside boroughs continue to comprise city school districts, with relationships between school boards and city councils to be governed in the same manner as those between borough school boards and assemblies, as under present law.

Home rule and first class cities outside boroughs must, and second class cities may, provide for planning, platting and zoning in the manner provided in the code for boroughs under the code (present law does not expressly require home rule or first class city exercise of planning, platting or zoning authority).

The chapter makes borough laws incorporated by reference under the chapter applicable to home rule cities only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Chapter 48. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution page 59, line 3 page 60, line 10 page 74, line 23 (Secs. 29.48.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of the object or purpose intended to be accomplished page 74, line 26 (Secs. 29.48.320 and 29.48.330). page 75, line 1

The procedure for enactment of ordinances has been simplified and streamlined without changing substantive rights. The code, however, changes the time between publication and hearing from one week to five days. The change permits special meetings for final consideration of

a proposed ordinance to be held on the same day as regular meetings page 69, line 1 (Sec. 29.48.140). The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances page 70, line 12 (Sec. 29.48.180). Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190). page 71, line 3

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250). page 72, line 14

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.- page 74, line 7 48.270). The thinking is that should a disaster strike the classification of the city is not particularly relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and page 58, lines 8-10 page 92, line 20 page 100 line 25 use taxes but not property taxes (Sec. 29.53.400). Within a borough the borough collects all of the taxes, provided the borough itself levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself (Sec. 29.53.450). page 94, line 2 Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). page 93, line 27-29 (This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes (Secs. 29.53.010 - page 75, line 7 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law (Sec. 29.13.100(19)). page , line 23 page 92, line 20 page 8, line 13 Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. Opin. No. 647, November 2, 1970).

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions by ordinance ratified by the municipal voters. Any exemptions or exclusions granted by home rule cities and in effect on the effective date of the proposed code would not be affected by enactment of the code.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and

page 79, line 10
interest on bonded indebtedness (Sec. 29.53.050). Property taxes for other purposes may not exceed three per cent of the assessed property valuation per year, including the combined levy of such taxes within page 79, line 13-15
a city by a borough and the city within the borough (Sec. 29.53.050).

There are several changes concerning the enforcement of tax liens. One is that the foreclosure list no longer must be presented to the court on the day of publication. This requirement has created substantial difficulty where the newspaper of publication is not located within the same city as the borough seat or within the city which is foreclosing the taxes. Under the current law, tax foreclosed property is deeded to the borough.

Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property deeded to the city not be needed for public use by the city but needed for public use by the borough, the borough may obtain such property. The same holds true for property deeded to the borough. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.-
page 90, line 13 page 91, line 27
360 and 29.53.385).

Under present law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under the code both a sales tax and use tax may be levied. The code requires an election on sales tax. Since use tax is a correlative of the sales tax and can only be adopted subsequent to or at a referendum where the sales tax is adopted, no separate election is required for adoption of
page 93, line 3 page 93, line 18
the use tax (Secs. 29.53.410 and 29.53.420).

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405). page 92, line 26

Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040). page 94, line 14 page 94, line 29

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160). page 96, line 26 Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default (Sec. 29.58.350), page 100, line 25 essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved (Sec. 29.58.205). page 98, line 5 In boroughs if the full faith and credit of

area outside cities or a service area, majority voter approval must be obtained both areawide as well as in the area outside or the service area (Sec. 29.58.340(d)); page 100, line 17 under present law, a boroughwide pledge is expressly authorized for bonds of a service area only.

Chapter 63. Special Assessment and Service Areas

Under existing law, there are two distinct sections on special assessments, each with minor variations and procedures. The major variation was cleaned up last session, but the procedures still vary slightly, depending upon whether the special assessment is initiated by petition of the people or by ordinance of the governing body. While these distinctions are not substantial, it becomes troublesome to determine precisely what procedure should be followed. In both instances, the procedures are extremely cumbersome.

This code standardizes the sections on special assessments to provide the same notice and hearing requirements as in existing codes. The procedural fairness requirements are retained, but much of the unnecessary cumbersomeness is eliminated.

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. page 101, line 6 29.63.010). The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for

annexation and exclusion by local action (Sec. 29.68.010). page 113, line 8

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.030). page 100, line 2

Unification of local governments is authorized as under present law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically than under present law (Secs. 29.68.350(a)(1) and 29.68.410). page 110, line 15 page 119, line 6 page 115, line 8 page 118, line 10

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.500(a)). In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500). page 119, line 11 page 119, line 22

Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). page 121, line 23

THE CODE IN GENERAL

The proposed revised municipal code is primarily a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The proposed code provides a better framework for existing law. It also provides a better framework from which to develop proposals for substantive changes which may be added after individual consideration of each change on its own merits.

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

This is a summary of substantive amendments to Senate Bill No. 113 resulting from deliberations of the Senate and House Local Government Committees meeting jointly. (The preceding summary of CSSB 113 and existing law takes into account the changes noted in this comparison).

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. page 3, line 16 (Sec. 29.08.040)

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. page 8, line 29 (Sec. 29.18.020)

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of $10 per voter. The minimum grant will be $25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-180) page 14, line 23

In selecting lands under the Alaska Statehood Act, it is the policy of the state to make available to boroughs and cities the maximum land area from which to make selections under this section, consistent with the best interests of the state. page 15, line 19 (Sec. 29.18.190)

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. page 17, line 27 (Sec. 29.23.040, page 25, line 28 page 29, line 7 Sec. 29.23.200, and Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the unorganized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. (Sec. 29.23.170) page 24, line 28

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. (Sec. 29.23.200) page 25, lines 22-24

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. page 33, line 29 (Sec. 29.23.560) page 34, line 6-10

A qualified voter contesting an election will bear the costs of a recount unless the result of the election is reversed by the recount. (Sec. 29.28.050) page 36, line 8

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee. (Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. page 58, line 4 (Sec. 29.43.020, page 75, line 7 to page 89, line 23 and page 92, line 20 Sec. 29.53.010-29.53.350 and Sec. 29.53.400)

The provisions of Ch. 12, SLA 1971, providing that home rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010)

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020) page 59, line 26

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033) page 61, line 12

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power by transfer from cities or by areawide vote. page 62, line 14 (Sec. 29.48.035)

Grandfather clause page 64, line 1

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a)) page 71, line 3

The property tax exemptions or exclusions required of all municipalities under present law are retained. page 75, line 13 (Sec. 29.53.020) General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. (Sec. 29.53.025) page 76, line 18

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. page 77, line 7 (Sec. 29.53.025 (c))

Existing law on valuation of farm land for property tax purposes is added. (Sec. 29.53.035) page 78, line 4

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050) page 79, line 10

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58.340 (d)) page 100, line 17

Boroughs and cities may assess the real property of governments and private citizens for all or part of the costs of capital improve-

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. page 101, line 6 (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special page 104, line 5 page 105, line 13 assessment bonds is added. (Sec. 29.63.060 and Sec. 29.63.085)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions page 106, line 9 clarify existing law. (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. (Sec. 29.53.405) page 92, line 26

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. (Sec. 29.68.010 (b)) page 107, line 15

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is page 115, line 8 delineated more fully than in existing law. (Sec. 29.68.350 (a) (1) and Sec. 29.68.410) page 118, line 10

The section of SB 113 on the civil tort liability of local governments is deleted (Sec. 29.73.010) and the existing law at AS 09.65.070 is retained.

# # #

Original sponsor: Local Government Committee

Offered: 4/12/71
Referred: Rules

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to revise and codify the law relating to cities and boroughs."

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

Since CS FOR HOUSE BILL NO. 208 is identical to CS FOR SENATE BILL NO. 113 (which has been printed and distributed - a 125 page bill) copies of CS FOR HOUSE BILL NO. 208 will not be mailed or distributed.

MUNICIPAL CODE

April 12, 1971

TO: Members of the Legislature and other recipients of CSSB 113 or CSHB 208 (municipal code)

The following typographical changes to "Comparison of CSSB 113 and Existing Municipal Law", one of three attachments accompanying the bill (and appearing with the other attachments after the bill index), are called to your attention:

Page 5: On the last line, the phrase ", who then" should be deleted and replaced with ". The"

Page 6: On the fifth line from the bottom of the page, the word "four" should read "three"

Page 6: On the last line of the page, the reference to "29.23.340" should be deleted.

Page 9: The reference to "Sec. 29.48.025" should read "Sec. 29.48.-035"

Page 16: Before the first line on the page the following words should be added: "the borough is pledged for the debt of the borough"

Page 16: The reference to "Sec. 29.58.340(d)" should read "Sec. 29.58.340(b)"

These corrections have been incorporated in the attachments to the bill as they appear in the House Journal of this date.

A M E N D M E N T

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208 (CSSB 113)

Page 43, lines 24 - 29, page 44, lines 1 - 29 and page 45, lines 1 - 16, strike all matter and substitute the following:

Sec. 29.33.050. EDUCATION. Each borough constitutes a borough school district and establishes, maintains and operates a system of public schools on an areawide basis as provided in AS 14.14.060.

Page 58, line 13: Strike "shall"

Page 72, lines 17 - 19: Strike all matter beginning with "However"

Page 125, line 28: Add the following new matter:

* Sec. 6. AS 14.14 is amended by adding a new section to read:

Sec. 14.14.060. RELATIONSHIP BETWEEN BOROUGH SCHOOL DISTRICT AND BOROUGH. (a) The borough assembly may by ordinance require that all school money be deposited in a centralized treasury with all other borough money. The borough chairman shall have the custody of, invest and manage all money in the centralized treasury. However, the borough assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibility of a centralized treasury.

(b) When the borough school board by resolution consents, the borough assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

(c) The borough school board shall submit the school budget for the following school year to the borough assembly by April 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money

to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made available from local sources from money available for the purpose.

(d) The borough assembly shall determine the location of school buildings with due consideration to the recommendations of the borough school board.

(e) The borough school board is responsible for the design criteria of school buildings. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly.

(f) The borough school board shall provide custodial services and routine maintenance for school buildings and shall appoint, compensate, and otherwise control personnel for these purposes. The borough assembly through the borough executive, shall provide for all major rehabilitation, all construction and major repair of school buildings. The recommendations of the school board shall be considered in carrying out the provisions of this section.

(g) State law relating to teacher salaries and tenure, to financial support, to supervision by the Department of Education and other general laws relating to schools, governs the exercise of the functions by the borough. The school board shall appoint, compensate, and otherwise control all school employees and administration officers in accordance with this title.

(h) School boards within the borough may determine their own policy separate from the borough for the purchase of supplies and equipment.

* Sec. 7. AS 14.14.065 is amended to read:

Sec. 14.14.065. RELATIONSHIP BETWEEN CITY SCHOOL DISTRICT AND CITY. The relationships between the school board of a city school district and the city council and executive are governed in the same manner as provided in sec. 60 of this chapter [AS 07.-15.330] for the school board of a borough school district and the borough assembly and executive.

Original sponsor: Local Government Committee

Offered: 4/22/71
Referred: Rules

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act to revise and codify the law relating to cities and boroughs."

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

******

CSHB 208 am, with the attached certified amendments comprise SENATE CS FOR CS FOR HOUSE BILL NO. 208

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CS FOR HOUSE BILL NO. 208 was not printed and distributed because of its length and because it is identical to CS FOR SENATE BILL NO. 113.

Engrossment of CS FOR HOUSE BILL NO. 208 am was waived and certified copies of the amendment only were printed. To examine CSHB 208 am, refer to CSSB 113 and incorporate the House amendment.

Engrossment of SCS CSHB 208 am S was waived and certified amendments are attached.

AMENDMENTS

IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS FOR CSHB NO. 208 am S

Page 3, line 7: Strike "second" and substitute "third"

Page 7, lines 19 - 20: Remove all matter and reinsert at page 7, between lines 22 - 23; renumber paragraphs accordingly

Page 8, line 2: Strike "295" and substitute "290(c)"

Page 8, line 6: Strike "43" and substitute "48"

Page 8, line 16: After the last matter on the line insert "29.53.410(d) (interest on sales tax)"

Page 15, line 2: After the word "incorporated" insert "after January 1, 1968"

Page 17, line 27: Strike "an election" and substitute "a regular election"

Page 25, line 28: Strike "every year"

Page 29, line 21: Strike "as" and substitute "or"

Page 36, line 22: Strike "reverses" and substitute "fails to reverse"

Page 49, lines 8 - 9. Strike all matter

Page 55, line 4: After "Agency." strike all matter on line 4 and substitute the following:

"The vote on the question of adding an areawide power shall be tabulated in two separate classifications. One shall consist of all votes cast in the home rule and first class cities of the borough. The other shall consist of all votes cast in the remaining borough area. If the majority of the votes cast in each classification is"

Page 55, line 24: Strike "section" and substitute "subsection"

Page 59, line 20: Strike all matter and substitute the following:

(9) to acquire, manage, control, use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries;

Page 65, line 15: Strike "general" and substitute "regular"

Page 71, lines 3 - 5: Remove all of paragraph (a); reletter following paragraphs accordingly

Page 73, line 12: Strike "general" and substitute "regular"

Page 79, lines 10 - 15: Strike all matter and substitute the following:

Sec. 29.53.050. TAX LIMITATION. No municipality may levy and tax for any purpose in excess of three per cent of the assessed valuation of property within the municipality in any one year.

Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The limitation provided for in sec. 50 of this chapter does not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount.

Page 84, line 18: Before "If" insert "(a)"

Page 85, between lines 9 - 10: add the following new matter:

(b) If the assembly imposes a penalty for the nonpayment of property taxes when due, or the late return of personal property assessment forms, the rate of penalty or combined rates of penalty may not exceed 10 per cent of the tax due on the property concerned.

(c) If the assembly charges interest on property taxes not paid when due, the rate of interest may not exceed eight per cent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

Page 89, line 15: After "the" insert "payment represented by"

Page 92, line 12: After "taxpayer" insert "with interest at eight per cent from the date of payment plus costs"

Page 92, line 16: After "taxpayer" insert "with interest at eight per cent from the date of payment"

Page 93, between lines 1 and 2, add the following new matter:

Sec. 29.53.410. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS CITIES. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

Page 93, line 3: Delete "410" and substitute "415"

Page 93, between lines 17 - 18: Add the following new matter:

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed eight per cent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

Page 100, line 13: Strike "; payment" and substitute "." and make a paragraph "(b) Payment,"

Page 100, line 14: Strike "service area" and substitute "area incurring the debt under (a)(2) or (a)(3) of this section"

Page 100, line 17: Strike "(b)" and substitute "(c)"

Page 100, lines 25 - 29: Delete all matter.

Page 101, lines 1 - 3: Delete all matter.

Page 106, line 19: After "question" insert "at a regular or special election"

Page 115, line 4: Strike "general" and substitute "regular"

Page 116, line 21: After "circulation" insert "distributed"

Page 116, line 22: After "circulation" insert "distributed"

Page 125, line 29: Add the following new matter and renumber following sections accordingly:

* Sec. 6. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.038. LIMITED PLATTING AUTHORITY IN THE UNORGANIZED BOROUGH. The division shall be the platting authority in the area outside organized boroughs and outside cities in the unorganized borough for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.33.200 - 29.33.240 governing platting boards within cities and organized boroughs. Costs of publication and mailing as well as other costs authorized in AS 29.33.210 shall be paid to the division by the petitioner. The department shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division.

TECHNICAL AMENDMENTS TO BE MADE BY LEGISLATIVE AFFAIRS

IN THE SENATE

TO: SCS FOR CSHB NO. 208 am

Page 7, line 28: After ".020" insert "(b)"

Page 17, line 28: Strike "at the time of the general election" and substitute "on the first Tuesday of October"

Page 18, line 1: Strike ", unless provided otherwise by ordinance"

Page 22, line 29: Strike "Tuesday after the first Monday" and substitute "first Tuesday of October"

Page 23, line 1: Strike "in November"

Page 25, lines 28 - 29: Strike "every year on the Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 27, lines 12 - 13: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, lines 22 - 23: Strike "municipal election on the Tuesday following the first Monday in November" and substitute "election held on the first Tuesday of October"

Page 35, line 22: Strike "in home rule and general law municipalities"

Page 35, line 23: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 123, line 24: Strike "Tuesday following the first Monday in November" and substitute "first Tuesday of October"

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CSSB 113 & CSHB 208 -- THE PROPOSED REVISED MUNICIPAL CODE*

Attachments Prepared by Direction of the Senate and House Local Government Committees Acting Jointly

a) Comparison of CSSB 113 (CSHB 208) and Existing Municipal Law

b) Comparison of CSSB 113 (CSHB 208) and SB 113 (HB 208)

Foreword and Synopsis of Attachments

The need for revision of the maze of local government laws of the state, most of them in the case of cities dating back to territorial days, has long been recognized by the legislature. By concurrent resclution adopted in 1963 the Third Legislature characterized the bulk of state law relating to cities as "disjointed" and not serving the best interest of the state. After a two-year revision effort conducted by the Local Affairs Agency, the Department of Law, and the Legislative Affairs Agency, a proposed revised code was introduced into the First Session of the Fourth Legislature and since then has been continually before the legislature in various modified forms of the original bill.

This year, following two years of preparation and six years of review and revision by legislative committees as well as by the Alaska Municipal League, the public through hearings, municipal and

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* The provisions of CSSB 113 and CSHB 208, like those of SB 113 and HB 208, are identical; for convenience, the reference to the proposed municipal code is made as CSSB 113, which is the printed and distributed bill.

school officials, staffs of the legislative and executive branches of the government, and others, the presentation of CSSB 113 marks the first time the proposed code has reached the floor of either house. It does so after consideration by joint deliberation of the Senate and House Local Government Committees. Its passage in the current session offers the opportunity for the same legislature which enacts it to observe its practical operation and make any changes it may deem warranted during the second session.

This code is based on a proposed draft submitted by the Alaska Municipal League and prepared by a League committee comprised of municipal attorneys and administrators; the League draft in turn is based on earlier versions of the proposed code but reflects extensive updating and adjustment of provisions to emphasize a technical revision rather than large-scale substantive changes in existing areas of law, particularly in terms of relationships of boroughs and cities and local governing bodies and school boards.

Like any overall revision of titles of the Alaska Statutes, of course, the code incorporates changes from existing law both in form and in substance, albeit the substantive changes are relatively few considering the scope of the revision and the technical changes made. Among the most significant substantive changes appear to be the following. The code

1) provides for two classes of general law cities rather than four; p. 8, 27-29 & p. 9, 1 (transition: p. 4, 19-29 & p. 5, 1-3)

2) makes clear which provisions of the code apply to home rule local governments and which do not apply; a notable page 7, lines 19-29 & page 8, lines 1-24

page 7 bill of

example of the merit of this approach is the basic provision outlining school board and local assembly or council relationships; the proposed code retains the substance of the provisions (sec. 29.33.050) virtually as they appear under present law (AS 07.15.330) but does not apply them to home rule governments; the provisions under present law have been the source of much controversy and pending litigation as to their applicability to home rule governments; Deleted by education amendment

3) authorizes cities and boroughs to permit, on vote of the people, exemptions from property taxes in addition to those exemptions now required by law or already permitted on an optional basis by law (general law cities and, arguably, home rule cities, do not have such authority under present law); page 76, lines 18-20

4) expressly authorizes use taxes as correlatives to STATUS QUO (existing exemptions: page 77, lines 21-24) sales taxes, which still continue to require voter approval; authorizes borough collection and refund of city sales taxes as well as city property taxes, the latter now being required to be collected by boroughs under present law; page 93, lines 7-10 page 93, lines 27-29 & page 94, line 1

5) establishes uniform fiscal years and practices for assessing, levying and collecting property taxes for all municipalities; page 71, lines 3-5 page 75, lines 7-12 & page 92, lines 20-25

6) revises existing cumbersome special assessment laws and permits levy of special assessments against governmental units; page 101, line 5 page 101, lines 11-13

7) authorizes differential property tax zones within cities to allow for different services or different levels of services than are provided generally within a city; page 92, lines 26-29

8) provides for general law cities within general law boroughs to levy sales or use taxes upon the same tax sources as are levied upon by the borough; page 93, lines 27-29

9) expands eligibility for organization grants to second class cities newly incorporating or reclassifying to first class status and assuming school functions (outside boroughs); page 14, line

10) provides that the terms of office of city, borough and school board officials are two years but that any local government may by ordinance choose otherwise and provide different terms not exceeding four years (three years for school boards, as under present law); terms of incumbents are not affected, however; page 17, line 2 page 25, line 2 page 29, line 7

11) sets the date of the regular municipal election at the same time as the date of the state general election (i.e. on the Tuesday after the first Monday of November); page 124, lines 14- Same as 10) Above

12) makes every local voter registered to vote in state elections eligible to vote in any municipal election, without being required also to meet separate municipal registration requirements; if not registered to vote with the state, he may vote in local elections upon meeting the local registration requirements if any; page 35, line 27 page 124, line 4

13) adds garbage and solid waste and water pollution control powers to the existing categories of powers which second class boroughs may exercise in the borough area outside cities without special voter approval; page 60, lines 6-7

14) gives cities authority to adopt and enforce building, housing and related codes within the cities rather than conferring such authority upon a borough as part of its required areawide planning, platting and zoning powers, as has been the interpretation under present law; page 63, lines 14-17

15) requires no election in general law cities and boroughs to sell municipal revenue bonds unless the local government chooses by ordinance to require an election. page 98, line 5

The fundamental change represented by the proposed code is technical in that it is a reorganized, clarified, and updated body of municipal law and a vastly improved framework within which to meet the legislative needs of municipalities as they may develop. Not the least of the proposed code's advantages is that it takes a body of law referred to probably as much or more than any other title in the Alaska Statutes and renders it far more intelligible for municipal officials as well as for the citizens whom it so directly affects.

The following summaries set forth in more detail comparisons of CSSB 113 and CSHB 208 and existing law and comparisons of CSSB 113 and CSHB 208 with the bills as first introduced.

In present draft, an assemblage of dynamite guns, 20 dead. majority

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND EXISTING MUNICIPAL LAW

INTRODUCTION

Senate Bill 113, the current version of the revised municipal code, is an entire recodification of the laws relating to cities and boroughs now found in Titles 7 and 29. Like other reorganized and updated statutory titles, it incorporates changes from existing law both in form and in substance.

The revision was directed by the 1963 Legislature, which noted that the bulk of law relating to cities (Title 29) was a disjointed product of the territorial period. Addition of the Borough Act as a separate title in 1961 (Title 7) further confused the municipal law area.

In 1963 and 1964, the Local Affairs Agency, Department of Law and the Legislative Council prepared the first draft of legislation combining and attempting to reconcile the provisions of Titles 7 and 29. The revision was introduced as SB 101 in 1965 and was the subject of widespread hearings around the state, committee deliberations, and further revision.

Revised versions of SB 101 were introduced into the legislature in 1966, 1967 and 1969.

SB 113, the basis of the current proposal, represents a thorough review by the Alaska Municipal League and governmental agencies at the municipal and state levels. The League felt that revision should be primarily technical and should not attempt to solve the substantive problems existing in two areas, that of relations between cities and boroughs and that of relations between schools and general government.

Accordingly, the bill in these areas is substantially the same as existing law, with some exceptions as noted further (see references on pages 6, 7, 9 and 12 - 14).

It is virtually impossible to detail all of the changes that have taken place between the code and existing municipal law, but this summary will explain the major impact of the revision. It takes into account changes made after joint deliberations of the Senate and House Local Government Committees which resulted in CSSB 113. These changes between CSSB 113 and SB 113 are also separately treated in an attachment following this summary.

Chapter 3. The Unorganized Borough

The law relating to the unorganized borough is unchanged. The present provisions of Title 7 granting authority to the division of lands to adopt zoning regulations for federal lands in the unorganized borough at the request of the Secretary of the Interior and only for purposes of facilitating federal land sales in the unorganized borough is placed in Title 38 (Sec. 6 of the proposed Act).

Chapter 8. Classification of Municipalities (i.e. Cities and Organized Boroughs)

One of the most significant changes is the change from four classes of cities to two classes of cities. The primary difference in the revision between the first and second class cities is that the first class city has the school function and has the power to assess, levy and collect a general property tax while the fourth class city has neither of these powers. Under present law, first, second and third class cities all have these powers, while fourth class cities do not. A population minimum of 400 persons has been set as the number

necessary to incorporate a first class city under the code, as in present law. The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the proposed Act. Existing second and third class cities of 400 or more persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given the option of becoming either first class or second class, depending upon their abilities and desires, as assessed by the local boundary commission and subject to legislative review. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020). The code provides for reclassification of cities and boroughs to a higher class. Upon reclassification of a third class borough to a second or first class borough the borough may retain a combined assembly-school board or may separate the functions between an assembly and a board, depending upon the wishes of the voters (Sec. 29.08.040).

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough (Secs. 29.13.010 - 29.13.080). Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections of the code which are specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections

themselves contain a specific reference making them applicable to home rule municipalities (Sec. 29.13.100). page 7, line 14

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized (Secs. 29.18.050 - 29.18.110). page 9, line 20 / page 11, line 23 The election of the first slate of officers is separated from the question of incorporation itself.

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities incorporating after the code takes effect. Organizational money grants based on an allocation of $10 per voter are allowed the newly incorporating boroughs and cities of all classes, other than unifying or consolidating municipalities. A minimum grant of $25,000 is authorized for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180). page 14, line 28

Under the revised code boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries. (Secs. 29.18.190 - 29.18.200). page 15, line 19 / page 16, line 1 Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code provisions, consistent with the best interests of the state.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' election dates and terms of office are changed to conform to the date of state general elections, but terms of office may be varied by local ordinance so as to provide either staggered or simultaneously expiring terms up to four years (Secs. 29.23.040, 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (Sec. 29.28.010).

The executive power has remained essentially the same except that the veto power of borough chairmen and mayors of first class cities has been broadened and clarified. In the past, there has been a question of whether a veto could be used for motions and other actions of the assembly or council. It is clearly spelled out that they may be.

Additionally, a new authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the only power the assembly or council has is to approve or disapprove the total school budget, and the chairman or mayor may only veto that which the assembly or council has power to enact) (Secs. 29.23.170 and 29.23.270). The mayor of a second class city is a member of the council and has no veto power (Sec. 29.23.270(b)).

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.-23.270). The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

A provision of present law applying only to first class cities and requiring written examination of police officer applicants on laws and ordinances, the examination to be graded by the council, is not retained in the code.

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). Election sections for election of borough assemblymen in the borough area outside cities are permitted, as under present law, with sections to be of approximately equal population (Sec. 29.23.100).

Utility boards elected by the voters or appointed by the municipal executive and confirmed by the governing body are permitted for boroughs and cities (Sec. 29.23.340). (Elected boards only are authorized to general law municipalities under existing statutes.)

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding four years authorized by local ordinance, and local governing bodies are authorized to provide for centralized purchasing of those school supplies and equipment which are of a kind used by municipal departments (Sec. 29.-48.250, and Secs. 29.23.310 and 29.23.340).

DELETED

In addition, the code makes clear that Sec. 29.33.050 setting out school board-governing body relationships is not intended to apply to home rule municipalities. There is uncertainty whether the same provisions as they appear in present law apply to home rule governments.

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23-410 - 29.23.480). page 31, line 16 / page 32, line 23

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, a financial report, and reports relating to long-term debt as already required under AS 44.19.205. The financial report takes the form of the annual audit for boroughs and first class cities, but second class cities may submit a statement of income and expenditures. Furnishing the reports is made a condition of receipt of authorized shared revenues under AS 43.18 (Sec. 29.23.560). page 33, line 25 / page 34, lines 6-10

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law (Sec. 29.28.020). page 35, line 21 Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years for borough and city governing bodies, and three years for school boards (the maximum term permitted under present law)

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.28.040).

Assemblies and councils are required to provide by ordinance for election appeals. If the appeal is successful, the assembly or council bears the cost; if unsuccessful, the contestant must pay (Sec. 29.28.050).

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of these powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110).

The section on recall has been changed to eliminate the successor running at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250).

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) assessment and collection of taxes, (2) education, and (3) planning, platting and zoning. Under current law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the new code broadens this to include the collection of use

page 43, line 19
and sales taxes authorized by the voters (Sec. 29.33.030).

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the placing of power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than the boroughs as part of the areawide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, boroughs now exercising the powers within cities may continue to do so upon agreement to that effect between a city and a borough; if there is no agreement, the city is required to exercise the powers within the city and the borough now exercising the powers
COMMERCE LEAGUE Page 64, line 1
is required to continue doing so outside the city. Areawide borough exercise of the powers may subsequently be acquired through transfer by
page 63, lines 24-29
the cities or by vote of the people (Sec. 29.48.035). (Present borough law has been interpreted by the Attorney General's office to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under existing laws relating to acquisition of additional areawide powers, it is unclear whether second class boroughs may, like first class boroughs, acquire additional areawide powers by transfer from cities. The revision explicitly authorizes this method. Also, the Local Affairs Agency is no longer required to pass upon the acquisition

of additional areawide powers. In both the revision and present law, additional areawide powers require approval by a majority of the borough voters (Secs. 29.33.250 - 29.33.290). page 54, line 7 / page 54, line 25

Chapter 38. Borough Powers and Duties in the Area Outside Cities

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.010). page 55, line 27

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.38.020), page 56, line 4 except with respect to certain special matters specified in Sec. 29.48.020, page 57, line 26 including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law. Acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency.

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged.

Chapter 43. Powers of Cities Outside Boroughs

Authority is continued for cities outside boroughs to assess, levy and collect property and sales taxes. Use tax authority is also conferred. Taxes are to be assessed, levied and collected in the same manner as set forth for boroughs in the code.

First class cities outside boroughs continue to comprise city school districts, with relationships between school boards and city councils to be governed in the same manner as those between borough school boards and assemblies, as under present law.

Home rule and first class cities outside boroughs must, and second class cities may, provide for planning, platting and zoning in the manner provided in the code for boroughs under the code (present law does not expressly require home rule or first class city exercise of planning platting or zoning authority).

The chapter makes borough laws incorporated by reference under the chapter applicable to home rule cities only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Chapter 48. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution page 57, line 3 / page 60, line 10 / page 74, line 23 (Secs. 29.48.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of page 74, line 26 the object or purpose intended to be accomplished (Secs. 29.48.320 and page 75, line 1 29.48.330).

The procedure for enactment of ordinances has been simplified and streamlined without changing substantive rights. The code, however, changes the time between publication and hearing from one week to five days. The change permits special meetings for final consideration of

a proposed ordinance to be held on the same day as regular meetings (Sec. 29.48.150). page 69, line 7 The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances (Sec. 29.48.180). page 70, line 12 Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190). page 71, line 3

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250). page 72, line 14 (DELETED?)

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.-48.270). page 74, line 7 The thinking is that should a disaster strike the classification of the city is not particularly relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and use taxes but not property taxes (Sec. 29.53.400). Within a borough the borough collects all of the taxes, provided the borough itself Page 58, lines 8-10/Page 92, line 20/Page 100, line 2. levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself (Sec. 29.53.450). page 94, line 2 Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). page 93, lines 27-29 (This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes (Secs. 29.53.010 - 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law (Sec. 29.13.100(19)). Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. Opin. No. 647, November 2, 1970).

page 75, line 7 page 89, line 23 / page 92, line 20 page 8, line 13

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions by ordinance ratified by the municipal voters. Any exemptions or exclusions granted by home rule cities and in effect on the effective date of the proposed code would not be affected by enactment of the code.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and

interest on bonded indebtedness (Sec. 29.53.050). page 79, line 10 Property taxes for other purposes may not exceed three per cent of the assessed property valuation per year, including the combined levy of such taxes within a city by a borough and the city within the borough (Sec. 29.53.050). page 79, lines 13-15

There are several changes concerning the enforcement of tax liens. One is that the foreclosure list no longer must be presented to the court on the day of publication. This requirement has created substantial difficulty where the newspaper of publication is not located within the same city as the borough seat or within the city which is foreclosing the taxes. Under the current law, tax foreclosed property is deeded to the borough.

Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property deeded to the city not be needed for public use by the city but needed for public use by the borough, the borough may obtain such property. The same holds true for property deeded to the borough. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.-360 and 29.53.385). page 90, line 13 / page 91, line 27

Under present law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under the code both a sales tax and use tax may be levied. The code requires an election on sales tax. Since use tax is a correlative of the sales tax and can only be adopted subsequent to or at a referendum where the sales tax is adopted, no separate election is required for adoption of the use tax (Secs. 29.53.410 and 29.53.420). page 93, line 3 / page 93, line 18

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405). page 92, line 26

Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040). page 94, line 14

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160). page 96, line 26 Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default (Sec. 29.58.350), page 94, line 29 page 100, line 25 essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved (Sec. 29.58.205). page 98, line 5 In boroughs if the full faith and credit of

area outside cities or a service area, majority voter approval must be obtained both areawide as well as in the area outside or the service area (Sec. 29.58.340(d)); under present law, a boroughwide pledge is expressly authorized for bonds of a service area only.

Chapter 63. Special Assessment and Service Areas

Under existing law, there are two distinct sections on special assessments, each with minor variations and procedures. The major variation was cleaned up last session, but the procedures still vary slightly, depending upon whether the special assessment is initiated by petition of the people or by ordinance of the governing body. While these distinctions are not substantial, it becomes troublesome to determine precisely what procedure should be followed. In both instances, the procedures are extremely cumbersome.

This code standardizes the sections on special assessments to provide the same notice and hearing requirements as in existing codes. The procedural fairness requirements are retained, but much of the unnecessary cumbersomeness is eliminated.

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. 29.63.010). The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for

annexation and exclusion by local action (Sec. 29.68.010).

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.030). page 108, line 2

Unification of local governments is authorized as under present law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically than under present law (Secs. 29.68.350(a)(1) and 29.68.410). page 110, line 15; page 119, line 6; page 115, line 8

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.-68.500(a)). In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500). page 118, line 10; page 119, line 11; page 119, line 22

Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). page 121, line 23

THE CODE IN GENERAL

The proposed revised municipal code is primarily a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The proposed code provides a better framework for existing law. It also provides a better framework from which to develop proposals for substantive changes which may be added after individual consideration of each change on its own merits.

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

This is a summary of substantive amendments to Senate Bill No. 113 resulting from deliberations of the Senate and House Local Government Committees meeting jointly. (The preceding summary of CSSB 113 and existing law takes into account the changes noted in this comparison).

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board? (Sec. 29.08.040) page 3, line 16

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. (Sec. 29.18.020) page 8, line 29

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of $10 per voter. The minimum grant will be $25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-180) page 14, line 28

In selecting lands under the Alaska Statehood Act, it is the policy of the state to make available to boroughs and cities the maximum land area from which to make selections under this section, consistent with the best interests of the state. (Sec. 29.18.190) page 15, line 19

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. (Sec. 29.23.040, Sec. 29.23.200, and Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the unorganized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. (Sec. 29.23.170)

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. (Sec. 29.23.200)

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. (Sec. 29.23.560)

A qualified voter contesting an election will be the costs of a recount unless the result of the election is reversed by the recount. (Sec. 29.28.050)

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee. (Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. (Sec. 29.43.020, Page 58, line 4 Page 75, line 7 to Page 89, line 23 Page 92, line Sec. 29.53.010-29.53.350 and Sec. 29.53.400)

The provisions of Ch. 12, SLA 1971, providing that home rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010) Page 59, line 3

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020) Page 59, line 26

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033) Page 61, line 12

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power by transfer from cities or by areawide vote. (Sec. 29.48.035) Page 63, line 23/4

GRANDFATHER CLAUSE Page 64, line 1

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a)) Page 71, line 3

The property tax exemptions or exclusions required of all municipalities under present law are retained. (Sec. 29.53.020) Page 75, line 13 General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. (Sec. 29.53.025) Page 76, line 18

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. (Sec. 29.53.025 (c)) Page 77, line 7

Existing law on valuation of farm land for property tax purposes is added. (Sec. 29.53.035) Page 78, line 4

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050) Page 79, line 10

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58 340 (b)) Page 100, line 17

Boroughs and cities may assess the real property of governments and private citizens for all or part of the costs of capital improve-

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. Page 101, line 6 (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special assessment bonds is added. Page 104, line 5 Page 105, line (Sec. 29.63.060 and Sec. 29.63.065)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions clarify existing law. Page 106, line 9 (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. Page 92, line 26 (Sec. 29.53.405)

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. Page 107, line 15 (Sec. 29.68.010 (b))

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is delineated more fully than in existing law. Page 115, line 8 (Sec. 29.68.350 (a) (1) and Sec. 29.68.410) Page 117, line 10

The section of SB 113 on the civil tort liability of local governments is deleted (Sec. 29.73.010) and the existing law at AS 09.65.070 is retained.

# # #

Original sponsor: Local Government Committee

Offered: 4/12/71
Referred: Rules

IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to revise and codify the law relating to cities and boroughs."

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

Since CS FOR HOUSE BILL NO. 208 is identical to CS FOR SENATE BILL NO. 113 (which has been printed and distributed - a 125 page bill) copies of CS FOR HOUSE BILL NO. 208 will not be mailed or distributed.

MUNICIPAL CODE

April 12, 1971

TO: Members of the Legislature and other recipients of CSSB 113 or CSHB 208 (municipal code)

The following typographical changes to "Comparison of CSSB 113 and Existing Municipal Law", one of three attachments accompanying the bill (and appearing with the other attachments after the bill index), are called to your attention:

Page 5: On the last line, the phrase ", who then" should be deleted and replaced with ". The"

Page 6: On the fifth line from the bottom of the page, the word "four" should read "three"

Page 6: On the last line of the page, the reference to "29.23.340" should be deleted.

Page 9: The reference to "Sec. 29.48.025" should read "Sec. 29.48.-035"

Page 16: Before the first line on the page the following words should be added: "the borough is pledged for the debt of the borough"

Page 16: The reference to "Sec. 29.58.340(d)" should read "Sec. 29.58.340(b)"

These corrections have been incorporated in the attachments to the bill as they appear in the House Journal of this date.

Original sponsor: Local Government Committee

Offered: 4/9/71
Referred: Rules

IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR SENATE BILL NO. 113

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to revise and codify the law relating to cities and boroughs."

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

* Section 1. The following laws are repealed: AS 07.05 - 07.40; AS 18.75.010 - 18.75.030, 18.75.050 - 18.75.060; AS 29.05 - 29.95; AS 40.15.070, and 40.15.100 - 40.15.180.

* Sec. 2. AS 29 is amended by adding new chapters to read:

TITLE 29. MUNICIPAL GOVERNMENT.

CHAPTER 3. THE UNORGANIZED BOROUGH.

Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not within the boundaries of an organized borough constitute a single unorganized borough.

Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to schools, utilities, land use regulations and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.08.010. HOME RULE. A home rule municipality is a municipal corporation and is a borough of the first class or city of the first class which has adopted a home rule charter. It has all legislative powers not prohibited by law or charter.

Sec. 29.08.020. GENERAL LAW. A general law municipality is a municipal corporation and is an unchartered borough or city. It has legislative powers conferred by law.

Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipalities are of five classes:

(1) first class boroughs;

(2) second class boroughs;

(3) third class boroughs;

(4) first class cities;

(5) second class cities.

Sec. 29.08.040. RECLASSIFICATION. (a) A second class city may be reclassified as a first class city by holding an election on the question as provided in this subsection, if the Local Affairs Agency determines from the best figures available that the population of the city has reached 400 permanent residents.

(b) An election on the question of reclassification may be initiated in two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the city at the preceding regular election may file a petition with the council; or

(2) the council may propose reclassification.

(c) The council shall hold at least one public hearing within the city on the question. The council shall then evaluate the ability of the city to assume first class status and make its findings public.

(d) The council shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(e) If more than one question is to be voted on at the election,

each appears separately on the ballot.

(f) The council shall certify the election results to the Local Affairs Agency. If the majority of votes cast on the question is favorable, the city shall be considered reclassified to first class status 30 days after certification of the election results.

(g) A second class borough may reclassify as a first class or third class borough, and a second class borough may reclassify as a first class or second class borough, in the manner provided by AS 29.-33.270 - 29.33.290 for the addition of powers by boroughs, except the petition or proposal requests reclassification instead of requesting addition of powers.

(h) At the time of voting on reclassification of a second class borough to third class status, borough voters in conformity with AS 29.41 shall elect an assembly to serve as the combined assembly and school board of the third class borough if reclassification is approved.

(i) At the time of voting on reclassification of a third class borough to second class or first class status, borough voters shall vote also on the question whether the borough shall upon reclassification retain a combined assembly and school board or a separate assembly and board as otherwise provided for first and second class boroughs. If the majority of votes cast on the question favors retention of the combined assembly and board, the assembly serving at the time of the reclassification election continues to serve as the assembly and board upon voter approval of reclassification and until terms of assemblymen expire as provided before reclassification. If a separate board and assembly are approved at the reclassification election, a school board shall be elected in conformity with AS 14.12 at the next regular municipal election, if it occurs within 90 days of the date of the reclassification election, or otherwise at a special election within that time

called by the assembly with expiration dates of terms of members elected at the special election to coincide with the date of the regular municipal election. Until a board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.08.050. TRANSITION. (a) Upon the effective date of this Act, the current classification of existing home rule cities and of first class cities having 400 or more permanent residents is not affected by this Act. Second and third class cities incorporated before the effective date of this Act and having 400 or more permanent residents are reclassified as first class cities. The city council shall certify by resolution the number of permanent residents within the city. Upon the failure to certify, the Local Boundary Commission shall hold a public hearing and make a determination as to classification as provided in (c) of this section.

(b) Upon the effective date of this Act, fourth class cities incorporated before the effective date of this Act are reclassified as second class cities subject to reclassification under sec. 40 of this chapter.

(c) The Local Boundary Commission shall, within two years of the effective date of this Act, hold a public hearing in each city which was first, second, or third class before the effective date of this Act and whose population is under 400 permanent residents. The commission shall determine in each case whether the city should be classified as first or second class under the new classification. The commission's decision must be published at least once. Unless objections are filed with the Local Boundary Commission by at least five per cent of the permanent residents of the city within 60 days, the classification recommended by the commission becomes effective on the 61st day. If objections are filed by at least five per cent of the permanent

residents of the city, the commission shall submit its recommendation to the legislature in the manner provided for submission of boundary changes in sec. 12, art. X of the state constitution.

CHAPTER 13. HOME RULE MUNICIPALITIES.

ARTICLE 1. CHARTERS.

Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class municipality may adopt a charter for its own government. A home rule municipality may amend its charter or adopt a new one. A charter is framed by a charter commission of seven members chosen by the municipal voters at a regular or special election. A candidate for the commission must be a qualified voter of the municipality and a resident of the municipality for three years immediately preceding the election. A charter commission election is called by filing a petition with the borough assembly or the city council, or by resolution of the borough assembly or city council. The petition must be signed by a number of municipal voters equal to 10 per cent of the votes cast in the last regular election of the municipality.

Sec. 29.13.020. NOMINATION. Charter commission candidates are nominated by petitions signed by 50 voters or the number of qualified municipal voters equal to 10 per cent of the number of votes cast in the last regular election, whichever is less.

Sec. 29.13.030. ELECTION. At the charter commission election the voters shall consider the question "Shall a charter commission be elected to frame a proposed new charter?" and shall select the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes shall immediately organize as a charter commission.

Sec. 29.13.040. PREPARATION OF CHARTER. The charter commission shall, within one year, prepare a municipal charter. The proposed

charter shall be signed by a majority of the charter commissioners and filed in the office of the municipal clerk. Within 15 days, the borough assembly or city council shall have the charter published once in a newspaper of general circulation if distributed within the municipality. The clerk shall post copies of the proposed charter in at least three public places and make copies available at the office of the clerk. The commission shall give published notice of and hold at least one public hearing on the proposed charter before signing and filing of the charter.

Sec. 29.13.050. INITIATIVE AND REFERENDUM. (a) Municipal charters shall provide the procedures for the initiative and referendum.

(b) A charter may not require an initiative or referendum petition to have a number of signatures greater than 25 per cent of the total votes cast at the last regular municipal election.

(c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by sec. 7, art. XI of the state constitution.

Sec. 29.13.060. CHARTER ELECTION. The charter shall be submitted to the municipal voters at a regular or special election held not less than 30 days nor more than 90 days from the publication of the charter.

Sec. 29.13.070. CHARTER ADOPTION. (a) If a majority of those voting on the question favor the proposed charter, it becomes the organic law of the municipality. Thereafter the court shall take judicial notice of the charter. The municipality shall file the indicated number of copies of the charter with the

(1) lieutenant governor - two copies;

(2) Local Affairs Agency - two copies;

(3) district recorder - one copy;

(4) municipal clerk - one copy.

(b) If a proposed charter is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060 - 29.28.110, except that no amendment shall be effective unless ratified by the voters.

ARTICLE 2. HOME RULE LIMITATIONS.

Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

(1) AS 29.23.020 - 29.23.050 (city representation and vote on borough assembly)

(2) AS 29.13.080 (charter amendment)

(3) AS 29.18.140 (borough transition)

(4) AS 29.23.250(a) (election and term of mayor)

(5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)

(6) AS 29.23.560 (municipal reports)

(7) AS 29.23.580 (meetings public)

(8) AS 29.28.010, 29.28.020 - 29.28.030 (municipal elections)

(9) AS 29.28.130 - 29.28.250 (recall)

(10) AS 29.33.010(b) (areawide borough powers)

(11) AS 29.33.295 (acquisition of additional areawide powers)

(12) AS 29.43.020 - 29.43.040 (powers of cities outside boroughs)

(13) AS 29.43.033 (garbage collection and disposal)

(14) AS 29.48.035(c) (borough building code jurisdiction within cities)

(15) AS 29.48.037 (extraterritorial jurisdiction)

(16) AS 29.48.040 - 29.48.100 (utilities)

(17) AS 29.48.180 (codification)

(18) AS 29.48.190(a) (fiscal year)

(19) AS 29.48.210 (expenditure of borough revenue)

(20) AS 29.48.220 (post audit)

(21) AS 29.53.010 - 29.53.350, 29.53.400(borough and city property tax)

(22) AS 29.58.180(b) (security for bonds)

(23) AS 29.68.010 (annexation and exclusion)

(24) AS 29.68.030 - 29.68.110 (merger and consolidation)

(25) AS 29.68.500 - 29.68.580 (dissolution)

(26) AS 29.73.020 (eminent domain)

(27) AS 29.73.030 (adverse possession)

(28) AS 29.73.040 (taxation of municipalities)

(29) AS 29.73.050 (municipal name changes)

CHAPTER 18. INCORPORATION.

ARTICLE 1. REQUIREMENTS.

Sec. 29.18.010. FIRST CLASS CITIES. A community having 400 or more permanent residents may incorporate as a first class city.

Sec. 29.18.020. SECOND CLASS CITIES. A community having 25 or

more permanent residents may incorporate as a second class city.

Sec. 29.18.030. ORGANIZED BOROUGHS. An area may incorporate as an organized borough if it conforms to the following standards:

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

(2) the boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services;

(3) the economy encompasses a trading area with human and financial resources capable of providing local services; evaluation of an area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough;

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

ARTICLE 2. PROCEDURES.

Sec. 29.18.050. PETITION. Municipal incorporation is proposed by filing a petition with the Local Affairs Agency. The petition shall include the following information about the proposed municipality:

(1) class;

(2) name;

(3) boundaries;

(4) composition and apportionment of the assembly or council;

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

(6) for a second class borough, a designation of areawide

powers to be exercised and of powers to be exercised in the area outside cities only;

(7) maps, documents, and other information required by the Local Affairs Agency to show that the proposed municipality meets the standards for incorporation;

(8) for first class city incorporation, the signatures and resident address of 50 permanent resident voters within the proposed municipality;

(9) for second class city incorporation, the signature and resident address of 10 permanent resident voters within the proposed municipality;

(10) for borough incorporation, the signature and resident address of 15 per cent of the permanent resident voters in each first class city and 15 per cent of voters in the area outside first class cities based on the number who voted in the respective areas in the last general election.

Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review petitions for content and signatures and shall return deficient petitions for correction and completion.

Sec. 29.18.070. INVESTIGATION. (a) If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal. It may use U. S. Bureau of the Census reports or other reliable information to determine more accurately the population of the proposed municipality.

(b) The agency may combine petitions for incorporation from the same general area.

Sec. 29.18.080. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation.

(b) The Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated for the purpose of gauging public sentiment on the incorporation proposal.

Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. (a) If the Local Boundary Commission determines that a proposed borough fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed borough meets the standards, it shall accept the petition. If the commission determines that the proposed boundaries can be altered to meet the standards, it may alter the boundaries and accept the petition.

(b) A commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.18.100. DECISION ON CITY INCORPORATION. (a) If the Local Boundary Commission determines that proposed city boundaries are too restrictive or too expansive for efficient local government, it may alter the boundaries and accept the petition.

(b) The commission may reject a petition for incorporation of a city lying within a borough if it determines that desired municipal services can be more practically and economically provided by the borough or by annexation to an existing city.

(c) A commission decision under this section may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of an incorporation petition. Within 30 days after notification, the lieutenant governor shall order an election in the proposed municipality to determine whether the voters desire incorporation. The election is held not less than 30 nor more than 90 days after the date of the election order. The election order must specify the dates

during which nomination petitions for election of initial officers may be filed.

(b) An Alaska voter who has been a resident of the area within the proposed municipality for 30 days before the date of the election order may vote.

(c) Areawide borough powers included in the incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each power to be exercised outside cities only is placed separately on the ballot. Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the voters residing outside cities.

(d) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-60). The state shall pay all election costs under this section.

Sec. 29.18.120. ELECTION OF INITIAL OFFICERS. (a) If incorporation is approved, the lieutenant governor shall, within 10 days of certification order an election to choose an initial slate of officers. The election is held not less than 60 nor more than 90 days after the date of the election order.

(b) Nominations for initial officers are made by petition. The petition is in the form prescribed by the lieutenant governor and includes the name and address of the nominee and a statement of the nominee that he is qualified under the provisions of this title for the office that he seeks. A person may file for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a home rule or first class city. Petitions to nominate officers of a second class city must include the signature and

resident address of 10 voters in the area of the proposed city. Petitions to nominate borough assemblymen must include the signature and resident address of 50 voters who are residents of the proposed borough in the area outside home rule and first class cities. Petitions to nominate other municipal officers must include the signature and resident address of 50 voters in the area of the proposed municipality.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The municipality shall not be required to reimburse the state for the election costs.

(d) The initial elected municipal officials take office on the first Monday following certification of their election. Borough assembly members representing home rule or first class cities are appointed by the city council and serve until the next regular city election and until their successors are elected and have qualified. All other elected municipal officials serve until the first regular election occurring after they have served two years in office and until their successors are elected and have qualified.

Sec. 29.18.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS. Service areas in a newly incorporated borough or city shall be integrated into the borough or city within two years after the date of incorporation. On integration the borough or city succeeds to all the rights, powers, duties, assets and liabilities of the service areas. After integration, the borough assembly or city council may exercise within a former service area all of the rights and powers exercised by the service area at the time of integration, and may levy and collect special charges, taxes, or assessments to amortize bonded indebtedness incurred by the service area or by a borough or

city as successor to the service area. Upon integration no less than all property in the service area at the time of integration remains subject to taxation to pay the principal of and interest on the bonds. The provisions of this section shall apply to all organized boroughs whether incorporated or organized before or after the effective date of this Act.

Sec. 29.18.140. TRANSITION. (a) The powers and functions exercised by home rule or general law cities and service areas which are succeeded to by a newly incorporated borough or city are exercised by them until the new borough or city assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect before the transfer remain in effect until superseded by the action of the new borough or city.

(b) The borough or city shall give written notice of its assumption of the powers, duties and other items enumerated in secs. 130 - 140 of this chapter, to the city, and service area concerned before the assumption. Borough or city officials shall consult with the officials of the city, and service area concerned and arrange an orderly transfer.

(c) After the incorporation of a new borough or city, no service area within it may assume new bonded indebtedness, make any contract, or transfer any assets without the consent of the assembly or council.

Sec. 29.18.150. CHALLENGE OF LEGALITY. No person may challenge the formation of a municipality except within six months of the date of its incorporation.

ARTICLE 3. TRANSITIONAL ASSISTANCE.

Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the purpose of defraying the cost of transition to borough or city government and

in order to provide for development and interim governmental operations, each borough and city incorporated or, in the case of a second class city, incorporated or reclassified after the effective date of this Act, other than a unified municipality incorporated under the provisions of ch. 134 SLA 1967, as amended, or a municipality otherwise incorporated by consolidation, is entitled to an organization grant equal to $10 for every voter who voted in the borough or city incorporation election. However, each incorporated borough and each first class city incorporated or established by reclassification outside an organized borough is entitled to at least $25,000.

(b) Within 30 days after the date of incorporation of a borough or city following the effective date of this Act the Local Affairs Agency shall determine the number of voters in the borough or city who voted in the incorporation election.

(c) Within 30 days after the completion of its findings, or as soon thereafter as money is appropriated to it for the purpose, the Local Affairs Agency shall transmit to the borough or city the total amount of money to which the borough or city is entitled.

Sec. 29.18.190. STATE LAND. A borough or city may select 10 per cent of the vacant, unappropriated, unreserved state land located within its boundaries. In the selection of land under the Alaska Statehood Act, it is the policy of the state to make available to cities and boroughs the maximum land area from which to make selections under this section consistently with the best interests of the state. Nothing in this section affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way or other purpose or affects the rights of an owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

Sec. 29.18.200. SELECTION PROCEDURE. (a) All selections must be made in reasonably compact tracts, taking into account the situation and potential uses of the land involved. The authority to make selections may not be alienated or bargained away, in whole or in part, by the borough or city.

(b) If land desired by the borough or city is unsurveyed at the time of its selection, the Department of Natural Resources shall survey or approve a survey by the borough or city of the exterior boundaries of the area requested without interior subdivision and shall issue a patent for the selected area in terms of the exterior boundary survey. The cost of survey is borne by the borough or city. If land desired by the borough or city has been surveyed at the time of its selection, the boundaries of the areas requested must conform to the public land subdivisions established by the approval of the survey. Land selected by the borough or city under this chapter is patented to the borough or city by the Department of Natural Resources.

(c) After the selection of the land by the borough or city but before the issuance of final patent, the borough or city may e[illegible] conditional leases and make conditional sales of selected land.

CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES.

ARTICLE 1. BOROUGH ASSEMBLY.

Sec. 29.23.010. GENERAL POWER. The legislative power of a borough is vested in the assembly.

Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTIONMENT. (a) The assembly of a borough is composed of the number of seats shown on the following table:

Population	Assembly Seats
Under 6,000	5
6,000 - 12,000	7

12,001 - 30,000	9
over 30,000	11

(b) If there is one home rule or first class city in the borough, the assembly is composed of at least one assemblyman from the home rule or first class city.

(c) The assembly seats are apportioned as follows: Except as provided in (b) of this section, each first class city has the number of seats designated in the following table, unless a lesser number is approved by a resolution of the council of the city concerned:

Population	Assembly Seats
under 2,000	1
2,000 - 6,000	2
6,001 - 12,000	3
12,001 - 30,000	4
over 30,000	5

(d) The area outside home rule and first class cities within the borough has a number of assemblymen equal to one more than the total number of all assemblymen who represent home rule and first class cities.

Sec. 29.23.030. ELECTION AND APPOINTMENT. Members of the assembly are appointed or elected according to the apportionment determined by the incorporation petition approved by the voters until the assembly is reapportioned. Members representing home rule and first class cities are appointed by and from the city councils, unless provided otherwise by city charter or ordinance. Members representing the area outside home rule and first class cities are elected.

Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs an election is held every ~~two~~ 3 years at the time of the general election to choose assemblymen from outside home rule and first class cities for two-year

terms, unless provided otherwise by ordinance, and until their successors are elected and have qualified. The regular term begins on the first Monday following the regular borough election. City councilmen on the assembly may not be replaced by the council unless their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or the council. The assembly may provide for different terms by ordinance, but they may not exceed four years. The current term of incumbent assemblymen may not be altered.

Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. If an assemblyman elected from an area outside home rule and first class cities or from a section becomes a resident of a home rule or first class city or another section he may continue to serve only until the next regular election. The assembly may by ordinance establish residency requirements for assemblymen elected from outside home rule and first class cities not exceeding three years.

Sec. 29.23.060. PROCEDURE. (a) The assembly shall meet at least once every month, unless otherwise provided by ordinance. All meetings shall be public meetings. Special meetings may be held on the call of the chairman, the presiding officer, or one-third of the members, upon not less than 24 hours written or oral notice communicated to each member. In an emergency a special meeting shall be a legal meeting if all members are present or there is a quorum and all absent members have waived in writing the required notice. A waiver may be either before or after the time of the meeting. The waiver shall be attached to and made a part of the journal for that meeting.

(b) The assembly shall elect from among its members a presiding

officer and a deputy presiding officer to serve at its pleasure. If the presiding officer is not present or disqualifies himself, the deputy presiding officer shall preside.

(c) The assembly shall determine its own rules and order of business and provide for keeping a journal of its proceedings.

(d) A majority of the membership authorized by law constitutes a quroum. In the absence of a quorum, any number less than a quroum may recess or adjourn the meeting to a later date. Actions of the assembly are adopted by a majority of the votes authorized on the question. All assemblymen present shall vote unless the assembly for special reasons permits a member to abstain, except no assemblyman may vote on a question in which he has a substantial direct or indirect financial interest.

(e) The final vote on each ordinance, resolution, or substantive motion is a recorded "yes" or "no", except that if the vote is unanimous it is necessary only so to state.

(f) When the borough assembly votes on an ordinance or resolution in exercising an areawide power and when it votes on the areawide budget, the votes are weighted to enable the assemblymen who represent a majority of the borough's population to have a majority of the votes. Weighted voting applies to all procedures and votes affecting the final outcome of the ordinance or resolution.

(g) The weight to be given to each vote cast by the assemblymen present and voting who represent a home rule or first class city which has a majority of the population is determined by dividing the number of all assembly seats apportioned to the area outside the city plus one by the number of seats apportioned to the city.

(h) The weight to be given to each vote cast by assemblymen present and voting who represent home rule and first class cities

which have a combined majority of the borough's population is determined by dividing the number of all assembly seats apportioned to the area outside cities plus one by the number of all assembly seats apportioned to the home rule and first class cities.

(i) If the area outside home rule and first class cities has the majority of the borough's population, each assemblyman present and voting has one vote.

(j) Fifty borough voters or a home rule or first class city in a borough may petition the assembly or the Local Affairs Agency, or the assembly may petition the agency, to determine from U. S. Bureau of the Census reports or other reliable information whether the votes of the assemblymen representing a home rule or first class city shall be weighted. The petition shall include evidence to indicate that weighted voting should or should not be used. A determination by the Local Affairs Agency prevails over one by the assembly. A determination by either the assembly or the agency is effective immediately, subject to judicial review for abuse of discretion.

Sec. 29.23.070. DEPARTMENTS. (a) The assembly may establish departments and distribute administrative functions among them.

(b) Each department is administered by a department head. With the consent of the assembly, the chairman may serve as the head of one or more departments or may appoint one person as the head of two or more departments.

Sec. 29.23.080. ASSEMBLY VACANCIES. (a) The assembly shall provide by ordinance the manner in which a vacancy in assembly representation occurs.

(b) A vacancy in the city council representation on the assembly is filled by a councilman designated by a majority of the remaining membership of the council to serve until the next regular election.

(c) A vacancy in the representation for the area outside a home rule or first class city is filled by a majority of the remaining assemblymen representing the area outside home rule and first class cities, who designate a voter residing outside home rule and first class cities, and if there are borough sections established, a resident of the borough section from which he will serve, to serve until the next regular election.

Sec. 29.23.090. REAPPORTIONMENT. (a) The assembly of home rule and general law boroughs shall be reapportioned by either of the following methods:

(1) The assembly shall reapportion itself when the apportionment does not meet the standards provided in sec. 20 of this chapter. The proposal must be submitted to the Local Affairs Agency for review.

(2) Fifty borough voters or a home rule or first class city in a borough may petition the assembly or the Local Affairs Agency to reapportion the assembly. The petition must include evidence that the apportionment of the assembly does not meet prescribed standards. If it is found from U. S. Bureau of the Census reports or other reliable information that the standards are not met, the assembly or the Local Affairs Agency shall reapportion the assembly. A reapportionment by the Local Affairs Agency prevails over one by an assembly. Reapportionment by the assembly or the agency is subject to judicial review for abuse of discretion.

(b) A reapportionment is effective beginning with the next regular election to the assembly. If reapportionment results in an increase of representation on the assembly, the assembly may determine that the reapportionment is effective before the next regular election. If the assembly makes this determination, the additional seats are

filled as prescribed in sec. 80(a) and (b) of this chapter for filling vacancies, except that additional seats outside home rule and first class cities may be filled without regard to sections.

Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough assembly may, by ordinance adopted without weighted voting, establish, alter, or abolish sections for the election of assemblymen in the area outside home rule and first class cities, except that sections may not be abolished unless a majority of the assemblymen outside home rule and first class cities approve. If it establishes sections, members representing the area outside home rule and first class cities represent the sections in which they reside. The ordinance must state whether assemblymen are elected by all voters outside home rule and first class cities or only by the voters of the section in which they reside. The number of sections equals the number of assemblymen representing the area outside home rule and first class cities. Section boundaries are established in such a way to provide, insofar as possible, clarity of boundaries, compactness of an area, approximately equal population representation among sections, and homogeneity of interest.

(b) Borough sections shall be reapportioned in the manner prescribed in sec. 90 of this chapter for reapportionment of the assembly.

ARTICLE 2. BOROUGH EXECUTIVE.

Sec. 29.23.130. EXECUTIVE POWER. (a) The executive and administrative power of the borough is vested in an elected chairman or in an appointed manager.

(b) A borough voter is eligible to be borough chairman.

(c) The chairman's regular term of office is two years and until a successor is elected and has qualified and begins on the first Monday following his election, which is held the Tuesday after the first Monday

in November. The assembly may provide by ordinance for a different term not to exceed four years, except that the current term of an incumbent chairman may not be altered.

(d) A borough may adopt or abandon a manager plan at any time, as provided in secs. 410 - 480 of this chapter. The chairman may not veto an ordinance or resolution calling for an election on this question. The manager has all the powers and duties of the chairman except that he has no veto power. There is no elected chairman if the manager plan is adopted, except that the chairman retains his office and the manager plan is not effective until the first regular election occurring at least six months after the manager plan is adopted.

Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH EXECUTIVE. (a) The borough executive, as the chief administrative officer, is responsible for the proper administration of all borough affairs. The executive of the borough shall

(1) appoint borough employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and in AS 29.33.050; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;

(2) suspend or remove by written order borough employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and in AS 29.33.050;

(3) supervise enforcement of borough law;

(4) prepare the annual budget and capital improvements program for the assembly;

(5) execute the budget and capital improvement program as adopted;

(6) make monthly reports to the assembly on borough finances and operations;

(7) report to the assembly at the end of each fiscal year on the finances and administrative activities of the borough;

(8) prepare and make available for public distribution an annual report on borough affairs;

(9) serve as borough personnel officer unless the assembly authorizes him to appoint a personnel officer;

(10) direct and supervise the administration of

(A) the functions of all borough officers and employees except as provided otherwise in this title;

(B) the care and custody of all borough buildings and of all real and personal property of the borough, except as provided otherwise by AS 29.33.050;

(C) the construction, maintenance, and operation of all borough roads, bridges, drains, buildings and other public works;

(11) execute other powers or duties specified in this title or lawfully prescribed by the assembly.

Sec. 29.23.150. EXECUTIVE ABSENCE. The assembly presiding officer shall act as chairman during the chairman's temporary absence or disability. If a manager plan has been adopted, the assembly shall designate by resolution a borough administrative officer to act as manager during his absence or disability.

Sec. 29.23.160. ASSEMBLY PARTICIPATION. The chairman may take part in the discussion of all matters before the assembly but may not vote.

Sec. 29.23.170. VETO. (a) Except as provided in (b) of this section, the chairman may veto any ordinance, resolution, motion or

other action of the assembly and may, by veto, strike or reduce items in appropriation ordinances except for school budget items. He shall submit to the assembly at its next regular meeting a written statement advising of his veto and giving his reasons. His veto may be overridden by two-thirds of all the votes to which the assembly is entitled on the question.

(b) The chairman may not veto actions of the assembly taken under sec. 130(d) of this chapter or actions of the board of equalization and the board of adjustment.

Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office of the chairman occurring within six months of a regular election shall be filled by the assembly. The person designated shall serve until the next regular election and until a successor is elected and has qualified. If an assemblyman is chosen, he shall resign his assembly seat. If a vacancy occurs more than six months before a regular election, the assembly shall call a special election to fill the unexpired term.

ARTICLE 3. CITY COUNCIL.

Sec. 29.23.200. COMPOSITION, ELIGIBILITY, ELECTION AND TERM. (a) Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at large basis for all members.

(b) A city voter is eligible to hold the office of councilman. A council member who ceases to be eligible to be a city voter immediately forfeits his office.

(c) An election is held every year on the Tuesday after the first Monday in November to choose councilmen for two-year terms and

until their successors are elected and have qualified. The regular term of office begins on the first Monday following the election. The council may provide by ordinance for different terms not to exceed four years, except that the current term of incumbent councilmen may not be altered.

Sec. 29.23.210. PROCEDURE. (a) The council shall meet at least once every month, unless otherwise provided by ordinance. Special meetings may be held on the call of the mayor or two councilmen upon not less than 24 hours written or oral notice communicated to each member.

(b) The council shall determine its own rules and order of business and provide for keeping a journal of its proceedings.

(c) Four councilmen constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution, or motion.

(d) The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. All councilmen present shall vote unless the council, for special reasons, permits a member to abstain.

Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall designate a person to fill the vacancy until the next regular election, and until a successor is elected and has qualified.

ARTICLE 4. CITY EXECUTIVE.

Sec. 29.23.240. MAYOR. Each city has a mayor who shall preside at council meetings, act as ceremonial head of the city, and sign documents on the city's behalf upon council authorization. In cities which have not adopted a manager plan, the mayor is responsible for the duties listed in sec. 290 of this chapter.

Sec. 29.23.250. ELECTION AND TERM OF MAYOR. (a) A voter of a

home rule or general law city is eligible to hold the office of mayor, except that a home rule city may prescribe additional residency requirements by charter.

(b) The mayor of a first class city is elected at large for a term of two years and until a successor is elected and has qualified. The council may provide by ordinance for a different term not to exceed four years, except that the current term of an incumbent mayor may not be altered.

(c) The mayor of a second class city is elected by and from the council for a term equal in length to a councilman's term.

(d) The mayor's regular term begins on the first Monday following his election, which is held on the Tuesday after the first Monday in November. The council of a second class city shall meet on the first Monday after the regular election date and elect a mayor who takes office immediately.

Sec. 29.23.260. MAYOR'S VOTE. (a) The mayor of a first class city is not a council member and may vote only in the case of a tie.

(b) The mayor of a second class city is a council member and may vote on all matters.

Sec. 29.23.270. VETO. (a) The mayor of a first class city may veto any ordinance, resolution, motion, or other action of the council and may, by veto, strike or reduce items in appropriation ordinances except, in a city outside an organized borough, for school budget items. He shall submit to the council at its next regular meeting a written statement advising of his veto and giving his reasons. A veto is overridden by the vote of two-thirds of the authorized membership of the council.

(b) The mayor of a second class city has no veto power.

Sec. 29.23.280. FILLING A VACANCY. (a) In a first class city,

a vacancy in the office of mayor occurring within six months of a regular election shall be filled by the council. The person designated shall serve until the next regular election and until a successor is elected and has qualified. If a councilman is chosen, he shall resign his council seat. If a vacancy occurs more than six months before a regular election, the council shall call a special election to fill the unexpired term.

(b) In a second class city, a vacancy in the office of mayor is filled by and from the council.

Sec. 29.23.290. POWERS AND DUTIES OF CITY MANAGER. If the city has a manager, he is the chief executive and administrative officer. The manager shall

(1) appoint city employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.-050; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;

(2) suspend or remove by written order city employees and administrative officers, except as provided otherwise in sec. 360 of this chapter and AS 29.33.050;

(3) supervise enforcement of city law;

(4) prepare the annual budget and capital improvement program for the council;

(5) execute the budget and capital program as adopted;

(6) make monthly financial reports to the council on city finances and operations;

(7) report to the council at the end of each fiscal year on the finances and administrative activities of the city;

(8) prepare and make available for public distribution an

annual report on city affairs;

(9) serve as city personnel officer unless the council authorizes him to appoint a personnel officer;

(10) execute other powers and duties specified in this title or lawfully prescribed by the council.

ARTICLE 5. SCHOOL BOARDS.

Sec. 29.23.310. ELECTION. Each borough and city school district has a school board. Members are elected at the regular municipal election held on the Tuesday after the first Monday in November for two-year terms and until their successors take office. However, the board may by ordinance provide for different terms not to exceed three years. All board members are elected at large, but school zones for the election of borough school boards may be established, altered, or abolished as provided by sec. 100 of this chapter.

ARTICLE 6. UTILITY BOARDS.

Sec. 29.23.340. UTILITY BOARDS. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) Members of the board are appointed by the municipal executive and confirmed by the assembly or council as are elected at the regular municipal election on the Tuesday following the first Monday in November. The term of a utility board member is two years and until a successor is elected and has qualified. However, the assembly or council may by ordinance provide for a different term not to exceed four years.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on a utility board serves until

the expiration of the term and until a successor is elected and has qualified.

(d) Unless otherwise provided by ordinance, the board shall

(1) choose its chairman and secretary;

(2) appoint the manager of the public utility for a term not longer than five years and set his salary;

(3) formulate and enforce the general rules and policies of the utility.

ARTICLE 7. OTHER OFFICERS AND EMPLOYEES.

Sec. 29.23.360. APPOINTMENT OF OFFICERS. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief executive or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief executive are subject to confirmation by the governing body.

Sec. 29.23.370. MUNICIPAL ATTORNEY. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed.

Sec. 29.23.380. MUNICIPAL CLERK. (a) The municipal clerk shall

(1) give notice of the time and place of meetings to the assembly or the council and to the public;

(2) attend meetings and keep the journal;

(3) arrange publication of notices, ordinances, and resolutions;

(4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules,

regulations, and codes;

(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the faithful performance of his duties as clerk-treasurer.

Sec. 29.23.390. MUNICIPAL TREASURER. (a) The treasurer is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum which the assembly or council directs.

ARTICLE 8. ADOPTION OR REPEAL OF MANAGER PLAN.

Sec. 29.23.410. APPLICATION. A municipality may adopt a manager plan of government.

Sec. 29.23.420. PETITION. Adoption of a manager plan may be initiated either by petition or upon motion of the assembly or council. A petition for the adoption of a manager plan is submitted to the assembly or council. The petition must be signed by a number of municipal voters equal to the following per cent of the votes cast at the preceding regular election:

(1) 25 per cent when the municipality has fewer than 7,500 persons;

(2) 15 per cent when the municipality has 7,500 persons or more.

Sec. 29.23.430. ELECTION. Upon receipt of the petition or upon its motion, the assembly or council shall provide by ordinance or

resolution for a vote on the question at the next regular or special election. Notice of the election shall be published at least 30 days before the election.

Sec. 29.23.440. ADOPTION. (a) If the manager plan is approved, the assembly or council shall adopt the plan by ordinance or resolution.

(b) The assembly or council shall notify the Local Affairs Agency of the adoption of the manager plan.

Sec. 29.23.450. APPOINTMENT. The assembly or council shall appoint a manager by a majority vote of its membership. He is chosen solely on the basis of his executive and administrative qualifications and receives the compensation set by the assembly or council. An elected municipal official may not be appointed manager of the municipality sooner than one year after leaving office, except that, by a vote of three-fourths of its authorized membership, the assembly or council may at any time appoint one of its members or other elected municipal officials as manager.

Sec. 29.23.460. TERM. Subject to the contract of employment, the manager holds office at the pleasure of the assembly or council.

Sec. 29.23.470. APPOINTMENT OF TEMPORARY OR NEW MANAGER. In the absence or disability of the manager, the assembly or council shall appoint a temporary manager. If the office becomes vacant, the assembly or council shall appoint a new manager.

Sec. 29.23.480. REPEAL. A municipality may repeal the manager plan in the same manner used for its adoption. At its first meeting after repeal, the assembly or council shall enact provisions for the reorganization of the municipal executive.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

Sec. 29.23.500. OATHS OF OFFICE. Municipal officers, before taking office, shall affirm in writing that they will honestly, faith-

fully, and impartially perform their duties. The oath is filed with the municipal clerk.

Sec. 29.23.510. COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

Sec. 29.23.520. BONDING. The executive and the other municipal officers or employees which the assembly or council may designate shall give bond in the amount and with the surety prescribed by the assembly or council. Premiums on bonds are paid by the municipality.

Sec. 29.23.530. SALARIES OF ELECTED OFFICERS NOT TO BE VARIED. The assembly or council may fix by ordinance the salaries of elected officers before they are elected. Salaries may not be changed during a term of office. An elected officer may not receive any other compensation for service to the municipality. Per diem payments or reimbursements for expenses are not compensation under this section.

Sec. 29.23.540. PROHIBITIONS. (a) No person may be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of his race, color, sex, creed, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations.

(b) This section applies to home rule and general law municipalities.

Sec. 29.23.550. PERSONNEL SYSTEM. All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system.

Sec. 29.23.560. REPORTS. (a) Home rule and general law municipalities shall file with the Local Affairs Agency:

(1) maps and descriptions of all annexed or excluded territory;

(2) a copy of the annual audit or in the case of second

class cities an audit or statement of annual income and expenditures;

(3) tax assessment figures as requested;

(4) reports relating to long-term debt as provided in AS 44.19.205.

(b) Compliance with the provisions of this section is a prerequisite to receipt of state shared-revenues under AS 43.18. The state shall withhold annual allocations under that chapter in the event of noncompliance until such time as the report requirements are complied with.

Sec. 29.23.570. VACANCIES. An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the assembly or council. The assembly or council shall declare an elective office vacant when the person elected

(1) fails to qualify or take office within 30 days after his election or appointment;

(2) is physically absent from the municipality for a 90-day period, unless excused by the assembly or council;

(3) resigns and his resignation is accepted;

(4) is physically or mentally unable to perform the duties of his office;

(5) is removed from office;

(6) misses three consecutive regular meetings unless excused; or

(7) is convicted of a felony or of an offense involving a violation of his oath of office.

Sec. 29.23.580. MEETINGS PUBLIC. Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The assembly and council shall provide reasonable opportunity for the public to be

heard at regular and special meetings. This section applies to home rule and general law municipalities.

CHAPTER 28. ELECTIONS.

ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

Sec. 29.28.010. ADMINISTRATION. (a) The borough assembly or city council shall prescribe the general rules for conducting municipal elections and appoint at least three judges for each polling place. The municipality may require voter registration by charter or ordinance, ratified by a majority of the voters, but may not otherwise alter qualification requirements. Elections are nonpartisan.

(b) This section applies to home rule and general law municipalities.

Sec. 29.28.015. NOMINATIONS. (a) The assembly or council shall provide by ordinance for nominations of elected officers by providing for declaration of candidacy, or petition requiring the signatures of not more than 10 voters, or both.

(b) A person may be nominated for and occupy more than one office, but he may not serve simultaneously as borough chairman and as a member of the borough assembly or as mayor and as a member of the council of a first class city.

Sec. 29.28.020. ELECTION DATES. (a) The date of a regular municipal election in home rule and general law municipalities is the Tuesday after the first Monday in November every even-numbered year, or at an interval of years provided by ordinance.

(b) The assembly or council may call a special election upon at least 20 days notice.

Sec. 29.28.030. VOTER QUALIFICATION. A person may vote only if he is a United States citizen who has been a resident of Alaska for one year and of the municipality for 30 days immediately preceding the

election and who is registered to vote in state elections or meets registration requirements of the municipality if any and is not disqualified under art. V of the state constitution. This section applies to home rule and general law municipalities.

Sec. 29.28.040. MAJORITY ELECTIONS. The assembly or council may by ordinance require a majority vote for election of officials. A runoff election or other means of obtaining a majority may be used.

Sec. 29.28.050. ELECTION CONTEST AND APPEAL. (a) The assembly or council may provide by ordinance the time and procedure for the contest of an election.

(b) Unless otherwise provided by ordinance an election may be contested only upon the filing, before or at the time of the first canvass of ballots by the assembly or council, by a person qualified to vote in the municipality of his written affidavit specifying with particularity the grounds for the contest or invalidity of the election.

(c) Unless otherwise provided by ordinance, the assembly or council shall declare the election results at the first meeting to canvass the election and record the results in the minutes of that meeting.

(d) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount reverses any result of the election.

(e) No person may appeal or seek judicial review of a city or borough election for any cause or reason unless the person is qualified to vote in the municipality, has exhausted his administrative remedies before the assembly or council and has commenced, within 10 days after the assembly or council has finally declared the election results, an action in the superior court in the judicial district in which the municipality is located. If no such action is commenced within the

10-day period, the election and election results shall be conclusive, final and valid in all respects.

ARTICLE 2. INITIATIVE AND REFERENDUM.

Sec. 29.28.060. RESERVATION OF POWERS. The powers of initiative and referendum are reserved to the residents of municipalities except the powers do not extend to matters restricted by sec. 7, art. XI, of the state constitution.

Sec. 29.28.062. PETITION. A petition for initiative or referendum is filed with the municipal clerk and an initiative petition must be filed not less than 90 days before the next regular election.

Sec. 29.28.065. CONTESTS OF PETITION. A petition for an initiative or referendum shall:

(1) embrace only a single comprehensive subject;

(2) set out fully the ordinance or resolution sought by the petition;

(3) state upon the petition, when circulated, the date of first circulation of the petition;

(4) contain the statement, when circulated, that the signatures on the petition must be secured within 90 days from the date of the first circulation;

(5) have the required signatures, dates of signatures and resident addresses of the signers.

Sec. 29.28.070. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 90 days from the date of the first circulation of the petition. The petition shall be signed in ink or indelible pencil.

(b) Every petition for either the initiative or referendum in the government of a municipality shall be signed by a number of qualified voters residing within the territorial limits of the municipality,

or, if the act sought to be initiated or referred pertains exclusively to the area outside cities or to a service area, by a number of qualified voters residing within the area outside cities or within the service area, as the case may be, equal to the following per cent of the total number of votes cast at the last general election in the city or borough or borough area concerned, or special election called for the purpose of electing city or borough officers:

(1) 25 per cent, when a city or borough has fewer than 7,500 persons, or

(2) 15 per cent, when a city or borough has 7,500 persons or more.

(c) When signing a petition each voter shall write or print after his signature the date of signing the petition and his resident address.

(d) Illegible signatures unless accompanied by a legible printed name may be rejected by the municipal clerk.

(e) A petition signer may withdraw his signature upon written application to the clerk within seven days after the petition has been filed with the clerk.

Sec. 29.28.073. SUFFICIENCY OF PETITION. (a) Within 10 days from the filing date, the municipal clerk shall certify on the petition whether or not it is sufficient.

(b) If the petition is insufficient, it may be amended or supplemented within 10 days after the filing date.

(c) Within 10 days after supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Sec. 29.28.075. PROTEST. If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest

with the municipal executive within seven days after the certification and the municipal executive shall present the protest at the next regular meeting to the assembly or council which shall hear and decide the protest.

Sec. 29.28.077. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

Sec. 29.28.080. PRESENTATION OF INITIATIVE. (a) When a petition seeks enactment of an ordinance or resolution within the powers of the assembly or council and not otherwise restricted by sec. 60 of this chapter, the clerk shall present it to the assembly or council at its next meeting after certification. The assembly or council may reject the petition if the subject matter of the initiative or referendum is within the restrictions of sec. 60 of this chapter.

(b) Unless the petition is granted within 30 days of its submission to the assembly or council, the clerk shall, with the assistance of the municipal attorney, prepare an ordinance or resolution to implement the petition and shall submit it to the voters at the next regular election. The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.

(c) If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared.

(d) The assembly or council may at any time not less than 10 days from the date of election adopt an ordinance or resolution to implement the petition. In that event an election shall not be held.

Sec. 29.28.090. PRESENTATION OF REFERENDUM. (a) When a petition seeks a referendum vote on an ordinance or resolution, the clerk shall

submit the ordinance to the voters of the municipality at the next regular or special election. If no regular or special election occurs within 75 days of the f'ling of a sufficient petition with the clerk, the assembly or council shall hold a special election within 75 days of filing.

(b) If a sufficient petition for referendum is filed within 30 days after final passage of the ordinance, or before the effective date of the ordinance, the ordinance against which the petition is filed shall be suspended pending the referendum on the ordinance. During the period of suspension the council may not enact an ordinance substantially similar to the suspended ordinance but may repeal the suspended ordinance.

(c) If a majority of those voting favor the referendum legislation, it remains in effect. If a majority rejects the legislation, it is repealed. A municipal charter may be amended as provided in the charter or by initiative and referendum as provided in secs. 60 - 110 of this chapter.

Sec. 29.28.110. EFFECT. (a) The assembly or council may not, within two years, act in any way to modify or negate the effect of a successful initiative or referendum. If an ordinance against which a referendum directed has been repealed by the assembly or council after a petition has been filed but before the referendum, the council or assembly may not enact substantially similar legislation for a period of one year after repeal.

(b) An unsuccessful initiative or referendum precludes the filing of a new petition for the same purpose sooner than six months after voter disapproval of the initiative or referendum.

ARTICLE 3. RECALL.

Sec. 29.28.130. RECALL. An elected official of a home rule or

general law municipality may be recalled by the voters after he has served six months in office.

Sec. 29.28.140. GROUNDS. Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

Sec. 29.28.150. PETITION. (a) A petition seeking recall of one or more municipal officials is filed with the municipal clerk. The petition shall contain

(1) the signatures and resident addresses of a number of voters as prescribed in sec. 70(b) of this chapter for initiative and referendum;

(2) the date each voter signed the petition; and

(3) a statement of the grounds of the recall stated with particularity as to specific instances.

(b) A petition for recall must be filed with the clerk within 60 days after the date of the earliest signature on the petition.

Sec. 29.28.160. EXAMINATION FOR SUFFICIENCY. The municipal clerk shall review the petition for content and signatures and shall certify on the petition within 10 days of the filing date whether it is accepted or rejected. Until the petition is accepted, a petition signer may withdraw his signature upon written application to the clerk.

Sec. 29.28.170. SUPPLEMENTAL PETITION. (a) If the petition is rejected because of insufficient signatures, it may be supplemented by additional signatures within 10 days after the date of rejection. If the petition is insufficient for any other reason, it shall be rejected and filed as a public record.

(b) Within 10 days after supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Sec. 29.28.180. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new recall petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

Sec. 29.28.190. SUBMISSION. If a recall petition is sufficient, the clerk shall immediately submit it to the assembly or council.

Sec. 29.28.200. ELECTION. (a) If a regular election occurs within 75 days of the submission, the assembly or council shall submit the recall at that election.

(b) If no regular election will occur within 75 days, the assembly or council shall hold a special election within 75 days of submission.

(c) If a vacancy occurs in the office after a recall petition is filed, the petition shall not be submitted to the voters.

Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot contains:

(1) the grounds as stated in the recall petition;

(2) the officer's statement of 200 words or less, if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]".

Sec. 29.28.220. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular election.

Sec. 29.28.230. MAJORITY REQUIRED. A two-thirds majority vote on the question is required to recall an officer.

Sec. 29.28.240. EFFECT. If an incumbent is not recalled at the recall election, a petition to recall the same incumbent may not be filed sooner than six months after the recall election.

Sec. 29.28.250. ELECTION OF SUCCESSOR. If the voters recall an officer, the clerk shall conduct an election for a successor to fill the unexpired term. The election shall be held at least 10 but not more than 45 days from the date of the recall election. However, if a regular or special election occurs within 75 days o ' the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section.

CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES.

ARTICLE 1. SCOPE.

Sec. 29.33.010. SCOPE OF AREAWIDE POWERS. (a) Boroughs shall exercise the powers as specified and in the manner specified in this chapter on an areawide basis, both inside and outside cities within their boundaries.

(b) No city, whether home rule or not, may exercise an areawide power once that power is being exercised by a borough.

ARTICLE 2. ASSESSMENT AND COLLECTION OF TAXES.

Sec. 29.33.030. ASSESSMENT AND COLLECTION. Boroughs shall assess and collect property, sales, and use taxes levied within tneir boundaries, subject to ch. 53 of this title. Taxes levied by a city and collected by a borough are returned in full to the levying city.

ARTICLE 3. EDUCATION.

Sec. 29.33.050. EDUCATION. (a) Each borough constitutes a borough school district and shall establish, maintain, and operate a system of public schools on an areawide basis.

(b) The borough assembly may by ordinance require that all school money be deposited in a centralized treasury with all other borough money. The borough chairman shall have the custody of, invest and

manage all money in the centralized treasury. However, the borough assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibility of a centralized treasury.

(c) When the borough school board by resolution consents, the borough assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

(d) The borough school board shall submit the school budget for the following school year to the borough assembly by April 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made from local sources from money available for the purpose.

(e) The borough assembly shall determine the location of school buildings with due consideration to the recommendations of the borough school board.

(f) The borough school board is responsible for the design criteria of school buildings. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and

subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly.

(g) The borough school board shall provide custodial services and routine maintenance for school buildings and shall appoint, compensate, and otherwise control personnel for these purposes. The borough assembly through the borough executive, shall provide for all major rehabilitation, all construction and major repair of school buildings. The recommendations of the school board shall be considered in carrying out the provisions of this section.

(h) State law relating to teacher salaries and tenure, to financial support, to supervision by the Department of Education and other general laws relating to schools, governs the exercise of the functions by the borough. The school board shall appoint, compensate, and otherwise control all school employees and administration officers in accordance with AS 14.

ARTICLE 4. PLANNING, PLATTING AND ZONING.

Sec. 29.33.070. PLANNING, PLATTING AND ZONING. (a) Boroughs shall provide for planning, platting and zoning on an areawide basis.

(b) If a city within a borough is located more than 25 miles from a boundary of the borough seat, the assembly by ordinance may

(1) designate the council of the city as a board of adjustment within the city;

(2) delegate other planning and zoning administrative and enforcement responsibilities to the city, provided that borough jurisdiction is not impaired;

(3) withdraw powers delegated under this subsection.

Sec. 29.33.080. PLANNING COMMISSION. (a) The borough planning commission consists of five residents unless a greater number is

otherwise provided by ordinance. Commission membership shall be apportioned so that the number of members from first class cities reflects the proportion of borough population residing within those cities. Members shall be appointed by the borough executive for a term of three years subject to confirmation by the assembly, except that appointments of members from first class cities are selected from a list of recommendations submitted by the city council. Members first appointed shall draw lots for one-, two- and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly.

(b) The commission shall prepare and recommend to the assembly

(1) a comprehensive plan consisting of maps and related texts for the systematic development of the borough;

(2) a zoning ordinance to implement the plan;

(3) a subdivision ordinance;

(4) the official map of the borough;

(5) modifications to the documents specified in (1) - (4) of this section.

(c) The commission shall publish notice of and hold at least one hearing before submitting its recommendations under (b) of this section to the assembly.

(d) The commission shall

(1) act as the platting board;

(2) act upon requests for variances;

(3) act upon requests for conditional uses.

(e) No platting request, variance or conditional use may be granted except upon an affirmative vote of a majority of the commission.

(f) The commission shall designate its presiding officer and

shall meet as frequently as is necessary. The commission shall establish, subject to approval by the assembly, rules and regulations for the conduct of its meetings. Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the municipal clerk and retained as public records.

Sec. 29.33.085. COMPREHENSIVE PLAN. (a) The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the borough, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.

(b) The assembly shall adopt a comprehensive plan based upon the recommendations of the planning commission. The assembly may modify the plan, provided that it first obtains the recommendations of the planning commission. The planning commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the assembly.

Sec. 29.33.090. ZONING. (a) In accordance with the comprehensive plan, the assembly shall regulate and restrict the use of land and improvements by districts. Regulations shall be uniform for each class or kind of building, structure, land or water area within each district, but the regulations may differ among districts.

(b) Zoning regulations adopted under (a) of this section may include, but are not limited to, restriction of

(1) land use;

(2) building location and use;

(3) the height and size of structures;

(4) the number of stories in buildings;

(5) the percentage of lot which may be covered;

(6) the size of open spaces;

(7) population density and distribution.

(c) Zoning regulations are designed to

(1) provide for orderly development;

(2) lessen street congestion;

(3) promote fire safety and public order;

(4) protect the public health and general welfare;

(5) prevent overcrowding;

(6) stimulate systematic development of transportation, water, sewer, school, park and other public facilities.

(d) The designation of zoning purposes does not confer police powers upon a borough except as authorized by this title nor does it prohibit cities within the borough from exercising police powers as to those purposes.

Sec. 29.33.110. BOARD OF ADJUSTMENT. (a) The assembly is the board of adjustment for areas outside cities, but it may delegate by resolution or ordinance part or all of its functions to other borough boards. The city council is the board of adjustment for the area within the city boundaries but may delegate by resolution or ordinance part or all of its functions to the borough. Meetings of the borough board are held at the call of the presiding officer and of the city board by the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

(b) The board of adjustment shall hear and decide

(1) appeals regarding alleged errors in enforcement of zoning ordinances and building codes;

(2) appeals from the decisions of the planning commission on requests for conditional uses;

(3) appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district;

(4) in the case of borough boards, appeals from cities regarding the borough official map.

(c) A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited.

Sec. 29.33.120. ADJUSTMENT PROCEDURE. An interested party, including but not limited to a borough or city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the borough clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

Sec. 29.33.130. JUDICIAL REVIEW. (a) The assembly shall provide by ordinance for appeals from the board of adjustment to the superior court.

(b) A municipal officer, a taxpayer, or a person, jointly or severally aggrieved, may appeal an action of the board to the superior

court by filing with the borough clerk within the time fixed by ordinance, a notice of appeal specifying grounds. When the notice of appeal is filed, the board shall at once transmit to the superior court clerk copies of all the papers constituting the record in the case.

(c) An appeal from the board of adjustment stays enforcement proceedings unless the court issues an enforcement order based on a certificate of imminent peril to life or property made by the board.

(d) The appeal is heard upon the record by the superior court, and the court may reverse or affirm, wholly or partly, the decision appealed from.

(e) Issues in proceedings under this section have preference over all other civil actions and proceedings. An appeal lies from the decision of the superior court as in other civil cases.

Sec. 29.33.150. PLATTING JURISDICTION AND POWER. The planning commission acting as the platting board has jurisdiction over platting and shall adopt and publish rules and regulations to implement this power. Jurisdiction includes, but is not limited to, the control of

(1) form, size, and other aspects of subdivisions, dedications, and vacations of land;

(2) dimensions of lots or tracts;

(3) street width, arrangement, and right-of-way, including allowance for access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage, and other public utility facilities and improvements.

Sec. 29.33.160. PROCEDURE. (a) The platting board shall within 60 days of filing approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval

shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010 - 40.15.020.

Sec. 29.33.170. WAIVER IN CERTAIN CASES. The platting board may in individual cases waive the preparation, submission, and recording of a plat upon satisfactory evidence that

(1) a conveyance of part of a larger tract is not made for the purpose of, or in connection with, a present or projected subdivision development;

(2) the transaction constitutes an isolated transaction which does not fall within the general intent of this chapter;

(3) no dedication of a street, alley, thoroughfare, park or other public area would be involved or required.

Sec. 29.33.180. INFORMATION REQUIRED. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance.

Sec. 29.33.190. PENALTIES. (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500 for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale,

or contract to sell, and may recover the penalty by appropriate legal action.

(b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than $500.

Sec. 29.33.200. ALTERATION OR REPLAT PETITION. No recorded plat may be altered or replatted except upon petition of the owners of a majority of the land affected by the alteration or replat or by the platting board. No platted street may be vacated, except upon petition of the municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

Sec. 29.33.210. NOTICE OF HEARING. The platting board shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The board shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The board shall also mail a copy of the notice to each affected property owner not signing the petition.

Sec. 29.33.220. HEARING AND DETERMINATION. At the hearing the platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the city council. No vacation of a street in the borough area outside cities may be made without the

consent of the borough assembly. The assembly or council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city or borough shall be considered to have been given to the vacation.

Sec. 29.33.230. RECORDING. If the alteration or replat is approved, the revised plat must be recorded by the platting board and is thereafter the lawful plat.

Sec. 29.33.240. TITLE TO VACATED AREA. (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

(b) If the borough or city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the borough or city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the borough or city on final vacation.

Sec. 29.33.245. HEARING OFFICER. The assembly may by ordinance

authorize the planning commission, the platting board and the board of adjustment to designate a hearing officer, or one or more members of the commission or board, to hear and decide cases under this chapter. The assembly shall prescribe procedures for hearings and appeals. The commission or board shall hear and decide appeals de novo.

ARTICLE 5. ADDITIONAL AREAWIDE POWERS.

Sec. 29.33.250. ADDITIONAL AREAWIDE POWERS. First and second class boroughs acquire additional areawide municipal powers by transfer from a city or by holding an areawide election on the question.

Sec. 29.33.260. TRANSFER BY CITY. (a) A city may transfer to the first or second class borough in which it is located any of its powers or functions, subject to the approval of the borough assembly.

(b) First and second class boroughs shall exercise all powers transferred to them by cities.

Sec. 29.33.270. PETITION FOR POWER. An election on the question of adding an areawide power may be initiated in two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the borough at the preceding regular election may file a petition with the assembly, or

(2) the assembly may propose the acquisition of the power.

Sec. 29.33.280. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.33.290. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(b) If more than one power is proposed, each appears separately on the ballot.

(c) The chairman shall certify the election results to the Local Affairs Agency. If the majority of votes cast on the question is favorable, the borough shall assume the added power within 30 days of certification of the election results. Upon acquisition of an areawide power the borough succeeds to all of the rights, powers and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises and other contractual obligations, liability for bonded and all other indebtedness and to all of the right, title and interest in the real and personal property held by the city or service area for the exercise of the power. The borough assembly may levy and collect special charges, taxes or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the city or service area for continuing services in the area. When a city or service area had previously incurred bonded indebtedness, no less than all property that was within the city or service area at the time the bonds were issued shall remain subject to taxation to pay the principal of and interest on the bonds for as long as they remain outstanding. Upon acquisition of additional areawide powers the borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties and other matters related to acquisition of the areawide powers. This section applies to home rule and general law cities.

CHAPTER 38. BOROUGH POWERS AND DUTIES IN THE AREA OUTSIDE CITIES.

Sec. 29.38.010. FIRST CLASS BOROUGH. The first class borough may exercise in the area outside cities any general law municipal power. Before exercising a power outside cities only, the borough

shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.38.020. SECOND CLASS BOROUGH. The second class borough may exercise in the area outside cities municipal powers approved at incorporation, conferred by AS 29.48.020, or added as provided in this chapter. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.38.030. ADDITIONAL POWERS. The second class borough may initiate the acquisition of additional powers outside cities in either of two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the area outside cities at the preceding regular election may file a petition with the assembly, or

(2) the assembly may place the question on the ballot.

Sec. 29.38.040. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.38.050. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(b) If more than one power is proposed, each appears separately on the ballot.

(c) The chairman shall certify the election results to the Local Affairs Agency. If the majority of the votes cast on the question is favorable, the borough shall assume the added power within 30 days of certification of election results.

CHAPTER 41. POWERS O·

THIRD CLASS BOROUGHS.

Sec. 29.41.010. POWERS OF THIRD CLASS BOROUGHS. (a) A third class borough shall exercise the areawide powers of education and tax assessment and collection in the manner provided for second class boroughs. Provisions of law relative to first and second class organized boroughs apply with respect to third class boroughs only to the extent they are consistent with this chapter.

(b) A third class borough may establish, operate, alter or abolish service areas in the manner provided for second class boroughs.

Sec. 29.41.020. ASSEMBLY TO SERVE AS SCHOOL BOARD. The borough assembly is the borough school board for third class boroughs. Where applicable, weighted voting shall apply to board decisions. The borough executive is the presiding officer of the borough assembly and president of the school board. The borough executive has all powers of a borough executive except for the veto power.

CHAPTER 43. POWERS OF CITIES

OUTSIDE BOROUGHS.

Sec. 29.43.010. ADDITIONAL POWERS. In addition to the powers granted by ch. 46 of this title, cities outside boroughs are granted the powers specified in this chapter. Powers of this chapter which are incorporated by reference to laws governing

boroughs apply to home rule cities outside boroughs only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Sec. 29.43.020. ASSESSMENT AND TAX COLLECTION. Home rule and first class cities outside boroughs may assess, levy and collect a general property tax. A property tax if levied must be assessed, levied and collected as provided by ch. 53 of this title for boroughs. Cities outside boroughs may levy and collect sales and use taxes as provided by ch. 53 of this title for boroughs.

Sec. 29.43.030. EDUCATION. Home rule and first class cities outside boroughs constitute city school districts and shall establish, maintain, and operate a system of public schools as provided by AS 29.33.050 for boroughs.

Sec. 29.43.040. PLANNING AND ZONING. Home rule and first class cities outside boroughs shall, and second class cities outside boroughs may, provide for planning, platting and zoning, as provided by AS 29.33.070 - 29.33.245 for boroughs.

CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES.

ARTICLE 1. GENERAL POWERS.

Sec. 29.48.010. GENERAL POWERS. Municipalities have the following general powers, subject to other provisions of law:

(1) to establish and prescribe the functions of municipal departments, offices or agencies;

(2) to establish and prescribe salaries for the elected and appointed municipal officers and employees;

(3) to make investigations of the affairs of the municipality and make inquiries into the conduct of a municipal department;

(4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;

(5) to require periodic and special reports from a municipal department to be submitted through the municipal executive;

(6) to sue and be sued;

(7) to levy taxes and special assessments;

(8) to enforce ordinances and to prescribe penalties for violations;

(9) to acquire and dispose of real and personal property;

(10) to acquire membership in organizations which promote legislation for the good of the municipality;

(11) to expend funds for community purposes for the good of the municipality;

(12) to borrow money and issue evidences of indebtedness.

Sec. 29.48.020. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES. A second class borough may in the area outside cities

(1) regulate or prohibit the offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(2) provide for the licensing, impounding, and disposition of animals;

(3) regulate the licensing and operation of motor vehicles and operators;

(4) regulate snow vehicles as provided in AS 05.30.070;

(5) provide for garbage and solid waste collection and disposal;

(6) provide for water pollution control.

ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

Sec. 29.48.030. MUNICIPAL FACILITIES AND SERVICES. (a) A municipality may exercise the powers necessary to provide the following public facilities and services:

(1) streets and sidewalks;

(2) sewers and sewage treatment facilities;

(3) harbors, wharves, and other marine facilities;

(4) watercourse and flood control facilities;

(5) health services and hospital facilities;

(6) cemeteries;

(7) police protection and jail facilities;

(8) cold storage plants;

(9) telephone systems;

(10) light, power and heat;

(11) water;

(12) transportation systems;

(13) community centers;

(14) libraries;

(15) recreation facilities;

(16) airport and aviation facilities;

(17) garbage and solid-waste collection and disposal service

and facilities subject to sec. 33 of this chapter;

(18) fire protection service and facilities;

(19) parking and parking facilities;

(20) housing and urban renewal, rehabilitation and development.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.33.250 - 29.33.290 for areawide exercise or in the manner required under AS 29.38.010 - 29.38.050 for exercise in the borough area outside cities, or are conferred by sec. 20 of this chapter for exercise in the borough area outside cities.

Sec. 29.48.033. GARBAGE COLLECTION AND DISPOSAL SERVICES. (a) The municipality may by ordinance provide for the establishment, maintenance and operation of a system of garbage collection and disposal for the entire municipality or for districts or portions of it; require all persons within the municipality or district to use the system and to dispose of their garbage as provided in the ordinance; award contracts for collection and disposal, or provide for the collection and disposal of garbage by municipal officials and employees; pay for garbage collection and disposal from available funds; require property owners or occupants of premises to use the garbage collection and disposal system provided by the municipality and fix charges against the property owners or occupants of premises for the collection and disposal; provide that charges for collection and disposal shall be paid by the property owner or occupants of the premises; and provide penalties for violations of the ordinances.

(b) The council of a first or second class city may not prohibit a person holding a valid permit from the Alaska Transportation Commission from continuing to collect and dispose of garbage and provide

other related services in an area annexed by the city if the permit authorizes the collection and disposal of garbage and the providing of other services in the area annexed by the city and the permit was originally issued before the area was annexed by the city. If a city provides for a garbage collection and disposal system in an annexed area already serviced by a person allowed to continue under this subsection, the city may not charge less than the rate set for garbage collection and disposal by the Alaska Transportation Commission for common carriers.

(c) If the council determines that it is not in the public interest for the city to provide garbage collection and disposal and related services under the restrictions of (b) of this section, it may exercise the power of eminent domain to acquire, at the fair market value, from the person providing the services, that portion of the operating authority representing the services within the city. The fair market value shall be based on the economic loss to the permit holder. If an eminent domain proceeding is instituted, the council may exercise the power through the filing of a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment.

(d) This section applies to home rule and general law municipalities.

Sec. 29.48.035. REGULATORY POWERS. (a) A municipality may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

(1) licensing and operation of motor vehicles, including snow vehicles, and operators;

(2) licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers

or baggage;

(3) vehicle parking and traffic;

(4) transportation fares;

(5) licensing, impounding and disposition of animals;

(6) selling of goods;

(7) selling of food;

(8) abandoned property;

(9) dangerous and disorderly conduct;

(10) alcoholic beverages as provided by AS 04.15.070;

(11) recreational devices as provided by AS 05.20.100;

(12) control of insects and rodents;

(13) offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(14) building, housing and related codes, which may be provided by cities within cities or, in the manner required in (b) or (c) of this section, by first or second class boroughs in the borough area outside cities or areawide;

(15) condemnation and abatement of public nuisances and hazards;

(16) garbage and solid-waste collection and disposal;

(17) water pollution control;

(18) other powers and functions affecting the general health, safety, well-being and welfare of its inhabitants.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.33.250 - 29.33.290 for areawide exercise or in the manner required under AS 29.38.010 - 29.38.050 for exercise in the borough area outside cities or are conferred by sec. 20 of this chapter for exercise in the borough area outside cities.

(c) The provisions of (b) of this section notwithstanding, boroughs which on the effective date of this Act are exercising building, housing or related code powers on an areawide basis or in the borough area outside cities shall, subject to acquisition of the powers on an areawide basis by transfer or election as provided in (b) of this section, exercise the powers in the borough area outside cities and, upon agreement of the city and borough, within any city, home rule or otherwise, in which the powers are being exercised on the effective date of this Act; if the city does not agree to continued borough exercise of the powers within the city, the city shall exercise the powers within the city.

Sec. 29.48.037. EXTRATERRITORIAL JURISDICTION. (a) A municipality may provide parks, roads, trails, playgrounds, cemeteries and airports outside its boundaries, subject to AS 29.33.010, and may regulate their use and operation. A egulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt ordinances to protect its water supply and watershed and may enforce them outside its boundaries. Before this power may be exercised within the boundaries of another municipality, the approval of that municipality must be given by ordinance. This section applies to general law and home rule municipalities.

Sec. 29.48.040. MUNICIPALLY-OWNED UTILITIES. A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits. This section applies to home rule and general law municipalities.

Sec. 29.48.050. FRANCHISES AND PERMITS. (a) The assembly acting

for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance.

(b) No franchise is valid until it has been submitted to the qualified voters of the city or borough area outside cities in which it applies, and at least 55 per cent of the votes cast are in favor of the franchise. At least 30 days notice of a franchise referendum election shall be given in the same manner as is provided for notice of regular municipal elections, and the notice shall specify the purpose of the election. The ordinance granting a franchise shall provide for its submission for ratification to the qualified voters of the city or borough area outside cities at either a general or special election, and the result of the election shall be canvassed publicly by the council or assembly and spread upon the records of the minutes and the result declared and certified in the same manner as in a regular election.

(c) Public utilities regulated under AS 42.05 have the right to use the streets and other public places, upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the assembly or council requires. A dispute as to whether fees, terms, conditions, or exceptions are reasonable shall be decided by the Alaska Public Utilities Commission.

Sec. 29.48.060. PUBLIC UTILITIES RATES. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to

the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital.

Sec. 29.48.070. HEARING FOR REGULATION OF UTILITIES RATES. If the assembly or council considers it advisable to regulate, change, or fix the rates to be charged by a public service corporation, association or individual not regulated under AS 42.05, it shall order a hearing to be held before the governing body at a time and place specified. Notice of the hearing shall be given by at least one publication in a newspaper of general circulation distributed within the municipality or, if no newspaper of general circulation is distributed within the municipality, notice shall be given by posting a notice in three public places within the city or borough area outside cities receiving the utilities services and by serving written notice upon the corporations, associations and individuals whose rates are to be regulated, fixed, or changed in the same manner that summonses are served. The notices shall be published or posted and served at least 15 days before the hearing.

Sec. 29.48.080. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY. At a hearing held under sec. 70 of this chapter, all public service corporations, associations, or individuals affected by or interested in the matters to be heard may be present and may be represented by counsel. The municipality and all interested parties may produce witnesses and examine them and introduce evidence to prove or disprove the facts in issue or matters to be established or inquired into at the hearing. All parties may compel the attendance of witnesses, and subpoenas

requiring attendance shall be issued by the municipal clerk under his hand and the seal of the municipality. Subpoenas duces tecum requiring the production of books and papers shall be issued in like manner upon request. If a person fails to obey a subpoena, the party at whose request the subpoena issued may petition the superior court for an order compelling the attendance of the disobedient witness or the production of the books or papers referred to in a subpoena duces tecum. The superior court shall order the witness to appear and testify or compel the production of the books or papers. A violation of the order of the court is a contempt of court. If a witness appears and refuses to testify concerning a matter material to the facts inquired about at the hearing and to establish or determine which the hearing was had, an application may be made to the superior court to compel the witness to testify and answer questions put to him concerning the matters inquired about, and the court shall make an order compelling the witness to testify. Violation of the order is contempt of court.

Sec. 29.48.090. FURTHER PROCEEDINGS. A hearing under sec. 70 of this chapter shall begin at the time stated in the notice but may be continued from time to time. At least a quorum of the assembly or council shall be present at the hearing. At the conclusion of the hearing the parties interested may make such arguments before the assembly or council, either in person or by attorney as they consider proper, touching the matters at issue, and thereafter the assembly or council shall proceed to regulate and fix the rates by ordinance. The date upon which the rates fixed or regulated tal effect shall be stated in the ordinance and shall be at least 10 days after passage and approval of the ordinance.

Sec. 29.48.100. APPLICATION. (a) In the case of conflict between the provisions of secs. 50 - 70 of this chapter and the provisions of

AS 42.05 as to the regulation of rates of a utility, the provisions of AS 42.05 shall prevail.

(b) Secs. 50 - 100 of this chapter apply to home rule and general law municipalities.

ARTICLE 3. MUNICIPAL ENACTMENTS.

Sec. 29.48.130. ACTS REQUIRED TO BE BY ORDINANCE. (a) In addition to other actions which this title requires to be by ordinance, the assembly or council of a municipality shall use ordinances to

(1) establish, alter or abolish municipal departments;

(2) fix the compensation of members of the assembly or council;

(3) provide for a fine or other penalty for establishing rules or regulations for violation of which a fine or other penalty is imposed;

(4) provide for the levying of taxes;

(5) make appropriations and supplemental appropriations or transfer appropriations;

(6) grant, renew, or extend a franchise;

(7) regulate the rate charged by a public utility;

(8) adopt, modify or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map;

(9) approve the transfer of a power to a borough from a city;

(10) designate the borough seat.

(b) This section grants no authority but requires the assembly or council to use ordinances in exercising certain of its powers.

Sec. 29.48.140. FORM OF ORDINANCES. Ordinances are introduced in writing in the form required by the assembly or council.

Sec. 29.48.150. ORDINANCE PROCEDURE. (a) The following procedure governs the enactment of all ordinances except emergency ordinances. An ordinance may be introduced by a member or committee of the assembly or council or by the municipal executive. An ordinance shall be set for hearing by the affirmative vote of a majority of the votes authorized on the question. A summary of the ordinance and its amendments is published together with a notice of time and place for public hearing. The hearing follows publication by at least five days. Copies of the ordinance must be available to all persons present or the ordinance must be read in full. The assembly or council shall hear all interested persons wishing to be heard. After the hearing, the assembly or council shall consider the ordinance and may adopt it with or without amendment. The assembly or council shall print and make available copies of adopted ordinances.

(b) Ordinances take effect upon adoption or at a later date specified in the ordinance.

Sec. 29.48.160. EMERGENCY ORDINANCES. (a) To meet a public emergency the assembly or council may adopt ordinances effective on adoption. Every emergency ordinance must contain a finding by the assembly or council that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The assembly must print and make available copies of adopted emergency ordinances.

(b) An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.

(c) Emergency ordinances are effective for 60 days.

Sec. 29.48.170. CODES OF REGULATIONS. The assembly or council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. For a period of 15 days before adoption at least five copies of the code must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The assembly or council shall provide for the adopted code to be sold to the public.

Sec. 29.48.180. CODIFICATION. (a) Each ordinance and resolution after adoption shall be codified.

(b) Within three years after incorporation of the municipality, the municipal executive, with the advice and assistance of a legal advisor, shall have prepared a general codification of all municipal ordinances of general applicability having the force and effect of law. The municipal code shall be revised and printed at least every five years, unless the code is kept current by regular supplements.

(c) In (a) of this section, codified means

(1) the ordinance has been given a serial number or other permanent identifying number and, bearing a notation of the date of adoption and the designation of the adopting authority, it has been entered by the municipal clerk in a properly indexed book maintained for the purposes of organizing and recording the ordinances; or

(2) the ordinance is a provision included, or to be included, in a code of ordinances or other complete system of positive law promulgated by the council and kept current by the city at reasonable intervals.

(d) This section applies to general law and home rule municipalities.

Sec. 29.48.190. BUDGET AND CAPITAL PROGRAM. (a) The fiscal year of home rule and general law municipalities begins on July 1 of each year.

(b) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

(c) A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance adopted by a majority of the votes authorized on the question.

(d) The assembly or council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

(e) Nothing in this section is intended to prevent the authorizing of payment or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

Sec. 29.48.200. PENALTIES. For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of $500 or imprisonment for 30 days, or both. However, the punishment authorized under this subsection may be imposed only if an ordinance is codified and copies of the ordinance are made available for distribution to the public.

Sec. 29.48.210. EXPENDITURE OF BOROUGH REVENUES. Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide

functions only. Revenues levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only.

Sec. 29.48.220. POST AUDIT. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities.

ARTICLE 4. MISCELLANEOUS PROVISIONS.

Sec. 29.48.250. CENTRALIZED PURCHASING. The assembly or council may provide for centralized purchasing, storage and distribution of supplies, material and equipment for the municipality and its departments. However, the municipal school board may determine the policy and provide for the purchase of supplies and equipment of a kind not used by other municipal departments.

Sec. 29.48.260. MUNICIPAL PROPERTIES. (a) A municipality may acquire and hold real and personal property or interest in property, and may sell, lease or otherwise dispose of property no longer required for municipal purposes.

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly or council it is advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal

procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor; (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that time in at least three public places in the municipality; (3) public auction or opening of sealed bids, if any; and (4) other terms and conditions fixed by the assembly or council. However, no ordinance for the sale, lease, or disposition of real property or interest in real property valued at $25,000 or more is valid unless ratified by a majority of the qualified voters voting at a general or special election at which the question of the ratification of the ordinance is submitted. Thirty days notice shall be given of the election and during that period the assembly or council shall have published at least once a week in a newspaper of general circulation distributed within the municipality a notice stating the time of the election and the place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, if any, and stating the title and date of passage of the ordinance. Notice shall also be given by posting a copy of it in at least three public places in the municipality at least 30 days before the election. If no newspaper of general circulation is distributed within the municipality, the notice given by posting is sufficient for the purposes of this section.

(d) The assembly or council may by ordinance establish a formal procedure for acquisition from the state of land or rights in land and the disposal of the land or rights in land, in which event the provisions of (c) of this section do not apply.

(e) A municipality, in order to make sites available for beneficial new industries, may acquire and hold real property, either inside or outside the corporate limits, and may sell, lease or dispose of it to persons who agree to operate a beneficial new industry upon the terms and conditions the assembly or council considers advantageous to the municipality.

Sec. 29.48.270. EMERGENCY DISASTER POWERS. (a) A municipality which is wholly or partially within an area which is declared by the President to be a disaster area may participate in and provide for housing and urban renewal and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough is limited to the area outside a city in the borough.

(b) A borough may exercise the powers for a housing or urban renewal and redevelopment project transferred to it by a city located in the borough as provided by AS 29.33.260.

(c) AS 29.38.020 - 29.38.050 are not applicable to the housing and urban renewal and redevelopment powers granted by this section.

(d) Powers granted by this section must be initiated within a period of not more than five years from the date of declaration of a natural disaster by the President, but these powers may be extended for an additional period of not more than three years.

ARTICLE 5. CONSTRUCTION OF POWERS.

Sec. 29.48.310. GENERAL CONSTRUCTION. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

Sec. 29.48.320. EXTENT OF POWERS. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.48.330. ENUMERATION OF POWERS. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation or exclusion upon the exercise of the power or function.

CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION.

ARTICLE 1. BOROUGH PROPERTY TAX.

Sec. 29.53.010. GENERAL PROPERTY TAX. Home rule and general law boroughs may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A property tax if levied must be assessed, levied and collected on real and personal property as provided in this chapter.

Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests;

(2) household furniture of the head of a family or a householder not exceeding $500 in value;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization;

(5) money on deposit.

(b) "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a nonprofit hospital;

(3) lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

(4) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure do not exempt the property from taxes levied and collected by municipalities.

Sec. 29.53.025. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) Municipalities may exclude or exempt property from taxation by ordinance ratified by the voters at a regular or special election.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed $5 a year for a boat or vessel of less than five net tons and shall not exceed $15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over $500 in value and the

effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property does not exceed the actual cost to the owner of the use by the renter.

(c) The provisions of (a) of this section notwithstanding,

(1) a home rule or first or second class borough may, by ordinance adopted without weighted voting, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on the effective date of this Act and not later withdrawn, are not affected by this Act.

Sec. 29.53.030. MINING CLAIMS. The assessed value of an unimproved unpatented mining claim which is not producing, and a nonproducing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is fixed at $200 for each 20 acres or

fraction of 20 acres. If the surface ground of a claim has a separate and independent value for nonmining uses, the real and personal property is assessed at its full and true value.

Sec. 29.53.035. FARM OR AGRICULTURAL LANDS. (a) Farm use lands shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other non-farm purpose. The assessor shall maintain separate assessment records evaluating the farm use land for other than farm use purposes, where applicable. Should the farm use land be sold, leased, or otherwise disposed of, for other than farm use purposes, the owner shall be liable to pay the additional tax for the preceding two years, and the applicable portion of the current tax year, as though the land had not been assessed for farm use purposes.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before February 1 of each year in which the assessment is desired. The application shall be made upon forms prepared and supplied by the assessor and shall include information which may reasonably be required to determine the entitlement of the applicant.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural or horticultural use or any combination thereof and includes the preparation of the products raised on the farm use land and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use. To be farm use land, the owner must be actively engaged in farming the land, and derive at least one-fourth of his yearly gross income from the farm use land. The provisions of this section shall not apply to land which

the owner has granted, and has outstanding, a lease or option to buy the surface rights.

Sec. 29.53.040. MOBILE HOMES. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office or commercial purposes and attached to the land or connected to water, gas, electric or sewage facilities are classed as real property for tax purposes. This section does not apply to house trailers and mobile homes which are unoccupied and held for sale by persons engaged in the business of selling mobile homes.

Sec. 29.53.050. TAX LIMITATION. Municipalities may levy property taxes to pay or secure the payment of principal and interest on general obligation bonds without limitation as to rate or amount. They may not levy property taxes for other purposes in excess of three per cent of the assessed property valuation including the combined levy of borough and city taxes within a city.

Sec. 29.53.060. FULL AND TRUE VALUE. (a) The assessor of a municipality shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and secs. 30, 35 and 160 of this chapter. The full and true value is the amount which the property would bring on an open market in a sale on normal payment terms between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the borough assembly.

Sec. 29.53.070. RETURNS. (a) The assembly may require every person having ownership or control of or an interest in property to

submit a return in the form prescribed by the assessor, based on property values existing on January 1, except as otherwise provided in this chapter.

(b) The assessor may, by written notice, require a person to provide additional information within 30 days.

Sec. 29.53.080. INDEPENDENT INVESTIGATION. (a) The assessor is not bound to accept a return as correct. He may make an independent investigation of property returned or of taxable property upon which no return has been filed. In either case, the assessor may make his own valuation of the taxable property, which is prima facie evidence.

(b) For investigation, the assessor or his agent may enter any premise during reasonable hours and may examine property on the premises. He may examine all property records involved. A person shall, upon request, furnish to the assessor or his agent every facility and assistance for the purposes of the investigation. If refused entry, the assessor may seek a court order to compel entry.

(c) An assessor may examine a person on oath. Upon request, the person shall present himself for examination by the assessor.

Sec. 29.53.090. STATEMENT. A person who fails to file a statement required by ordinance or who knowingly makes a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation, is guilty of a misdemeanor. Upon conviction, he is punishable by a fine of not more than $500, or by imprisonment for not more than 30 days, or by both, together with costs of prosecution.

Sec. 29.53.100. ASSESSMENT ROLL. (a) The assessor shall prepare an annual assessment roll. The roll contains

(1) a description of all taxable property;

(2) the assessed value of all taxable property;

(3) the names and addresses of persons with property subject to assessment and taxation.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the owner of record as shown in the records of the district recorder, who shall at least monthly provide the assessor a copy of each recorded change of ownership and the address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal owner of record. If the property owner is unknown, the property may be assessed to "unknown owner". No assessment is invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

Sec. 29.53.110. ASSESSMENT NOTICE. (a) The assessor shall give every person named in the assessment roll a notice of assessment, showing the assessed value of his property. On each notice is printed a brief summary of the dates when taxes are payable, delinquent and subject to penalty and interest, and the dates when the board of equalization will sit.

(b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing.

Sec. 29.53.120. CORRECTIONS. (a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of his property. The assessor may correct errors or omissions

in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board.

Sec. 29.53.130. APPEAL. (a) A person whose name appears on the assessment roll or his agent or assigns may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(b) The appellant shall, within 30 days from the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form which the board may require. Otherwise, the right of appeal ceases unless the board finds that the taxpayer was unable to comply.

(c) The assessor shall notify appellants by mail of the time and place of their hearing.

(d) The assessor shall prepare for use by the board a summary of assessment data relating to each assessment which is appealed.

(e) A city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city.

Sec. 29.53.135. BOARD OF EQUALIZATION. The assembly is the board of equalization. It may delegate all or part of its functions as the board of equalization to an appointed board consisting of not fewer than five or more than nine members. The assembly shall by ordinance adopt rules for the membership and conduct of the board.

Sec. 29.53.140. HEARING. (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

(c) The only grounds for adjustment is proof of unequal, excessive or improper valuation based on facts stated in a valid written appeal timely filed or proved at the hearing.

(d) The board shall certify its actions to the assessor within ~~three~~ seven days.

(e) The assessor shall enter the changes and certify the final assessment roll by June 1.

(f) An appellant may appeal to the superior court for ~~review~~ trial de novo of the board's action.

Sec. 29.53.150. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

Sec. 29.53.160. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATURAL DISASTER. (a) The assembly may provide for reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster.

(b) A reassessment may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that his losses exceed $1,000. A reduction of taxes may be made only on losses in excess of $1,000 for the remainder of the year following the disaster. Upon reassessment, the borough shall recompute this tax and refund taxes which have already been paid.

(c) The borough shall make notice of assessment or reassessment and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal is filed with the board of equalization within 10 days after notice of assessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply.

(d) In enacting an ordinance or resolution authorized by this section, the assembly may, consistent with this section, prescribe procedures, restrictions and conditions of assessing or reassessing property and of remitting, refunding or forgiving taxes.

(e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g, or other federal law.

Sec. 29.53.170. TAX LEVY AND RATE. (a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of general ordinances, but the rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by resolution.

(b) The assembly shall annually determine the rate of levy before June 15. By July 1 the tax collector shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

Sec. 29.53.180. RATES OF PENALTY AND INTEREST. If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty not to exceed 10 per cent may be added to all delinquent taxes, and interest at the rate of eight per cent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments and the first half is not paid when due, the entire tax becomes delinquent and penalty and interest accrue as follows:

(1) if the first half is paid when due, the second half is payable on the due date fixed by the assembly for the second half and if not paid is delinquent after that date;

(2) a penalty not to exceed eight per cent shall be added

to all taxes delinquent until the due date fixed for payment of the second half, and interest at the rate of eight per cent a year shall be charged on the whole of the unpaid taxes, not including penalty, from due date until paid in full;

(3) after the due date for the payment of the second half, a total penalty of not more than 10 per cent may be added to all delinquent taxes, and interest at the rate of eight per cent a year shall accrue upon all unpaid taxes, not including penalties, from due date until date paid in full.

ARTICLE 2. ENFORCEMENT OF TAX LIENS.

Sec. 29.53.200. VALIDITY. Certified assessment and tax rolls are valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

Sec. 29.53.210. TAX LIABILITY. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the borough.

(b) Real property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

Sec. 29.53.220. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made by virtue of a warrant

issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale.

Sec. 29.53.230. REAL PROPERTY TAX COLLECTION. (a) The borough shall enforce delinquent real property tax liens by annual foreclosure, unless otherwise provided by ordinance.

(b) If the tax on property described in sec. 40 of this chapter or on a leasehold interest in tax exempt property is not paid when due, a borough may enforce the tax by a personal action against the delinquent taxpayer brought in the district or superior court, in addition to other remedies available to the borough to enforce the lien.

Sec. 29.53.240. FORECLOSURE LIST. (a) The borough shall

(1) annually present a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent taxes to the superior court for judgment;

(2) publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed within the borough or, if there is no newspaper of general circulation distributed within the borough, post the list at three public places for at least 30 days;

(3) within 10 days after the first publication or posting, mail to the last known owner of each property as his name and address appear on the list a notice advising of the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

(b) The list shall be arranged in alphabetical order as to the last name and shall include

(1) the last known owner;

(2) the property description as stated on the assessment roll;

(3) years and amounts of delinquency;

(4) penalty and interest due;

(5) a statement that the list is available for public inspection at the clerk's office;

(6) a statement that the list has been presented to the superior court with a petition for judgment and decree.

(c) Completion of the requirements of (a) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list.

Sec. 29.53.250. CLEARING DELINQUENCIES. During the publication or posting of the foreclosure list and up to the time of transfer to the borough a person may pay the taxes, together with the penalty, interest and costs. The collector shall note payment on the foreclosure list.

Sec. 29.53.260. LIST TO LIENHOLDER. A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list which includes such real property.

Sec. 29.53.270. GENERAL FORECLOSURE. The borough shall bring one general foreclosure proceeding in rem against the properties included in the list. If the owner is unknown, the property is proceeded against as belonging to "unknown owner". Tax foreclosure proceedings have priority over all other civil proceedings except board of adjustment appeals as provided in AS 29.33.130(e).

Sec. 29.53.280. ANSWER AND OBJECTION. A person having an interest in a tract on the foreclosure list may file an answer within 30 days of the date of last publication, specifying his objection. The court

shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid.

Sec. 29.53.290. JUDGMENT. The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against and a lien on each parcel.

Sec. 29.53.300. TRANSFER AND APPEAL. (a) Foreclosed properties are transferred to the borough for the lien amount. When answers are filed the court may enter judgment against and order the transfer to the borough of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

(b) The court clerk shall deliver a certified copy of the judgment and decree to the borough clerk. The certified judgment and decree constitutes a transfer to the borough.

(c) The judgment and decree stops objections to it which could have been presented before judgment and decree.

(d) Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in the manner provided for appeals in civil actions.

Sec. 29.53.310. REDEMPTION PERIOD. (a) Properties transferred to the borough are held by the borough for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs. Property redeemed is subject to all taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

(b) A person holding a mortgage or other lien of record covering a part only of a parcel of real property included in the judgment and decree of foreclosure may redeem that part by paying the proportionate amount applicable under the judgment and decree.

Sec. 29.53.320. EFFECT. Receipt of redemption money by the clerk releases all claims of the borough to the property. The clerk shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk shall file the certificate with the recorder and collect the recording fee from the person redeeming at the time of redemption. The court clerk shall file the certificate as part of the judgment roll.

Sec. 29.53.330. ADDITIONAL LIENS. If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the receipt for payment constitutes an additional lien on the property, collectible in the same manner as the original lien.

Sec. 29.53.340. POSSESSION DURING REDEMPTION PERIOD. Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under his permission or control, the borough may declare an immediate forfeiture of the right to possession.

Sec. 29.53.350. EXPIRATION. Not earlier than 30 days before the expiration of the redemption period the clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately on expiration of the period of redemption and that every right or

interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against whom a judgment of foreclosure has been taken. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

Sec. 29.53.360. DEED TO BOROUGH OR CITY. (a) Unredeemed properties in the area of the borough outside cities are deeded to the borough by the clerk of the court. Unredeemed properties within a city are deeded to the city subject to the payment by the city of unpaid borough taxes and costs of foreclosure levied against th property before foreclosure. The deeds shall be recorded in the recording district in which the property is located.

(b) Conveyance gives the borough or the city clear title except for prior recorded liens of the United States and the state.

(c) If unredeemed property lies within a city and if the city has no immediate public use for the property but the borough does have an immediate public use, the city shall deed the property to the borough. If unredeemed property lies within the borough outside a city and if the borough does not have an immediate public use for the property but the city does have an immediate public use, the borough shall deed the property to the city.

(d) No deed is invalid for irregularities, omissions or defects,

unless the former owner has been misled to his injury. After two years from the date of the deed its validity is conclusively presumed and any claim of the former owner is forever barred.

Sec. 29.53.370. SALE OF FORECLOSED PROPERTIES. Tax-foreclosed properties conveyed to a borough or city by tax foreclosure may be sold. Before the sale of any property held for a public purpose, the assembly or council by ordinance shall determine that the public need no longer exists.

Sec. 29.53.375. REPURCHASE BY RECORD OWNER. (a) The record owner at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property, for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight per cent a year from the date of entry of the judgment of foreclosure to the date of repurchase, together with delinquent taxes assessed and levied as though it had continued in private ownership.

(b) After termination of the right of redemption there is no right to repurchase property held for, or devoted to, a public purpose.

Sec. 29.53.380. PROCEEDS OF TAX SALE. Upon sale of foreclosed real or personal property the borough or city shall divide the proceeds less cost of collection, between the borough and the city having unpaid taxes against the property. The division is in proportion to the respective municipal taxes against the property at the time of foreclosure.

Sec. 29.53.385. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a city or borough holds or takes title to tax-foreclosed property for a public purpose, the city or borough shall satisfy unpaid taxes and

assessments against the property held by other municipalities, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed valuation of the property, the city or borough shall pay the other municipalities the assessed valuation, which shall be divided between the other municipalities in proportion to their respective taxes and assessments against the property at the time of foreclosure.

Sec. 29.53.390. REFUND OF TAXES. (a) If a taxpayer pays taxes under protest, he may bring suit in the superior court against the borough for recovery of the taxes. If judgment for recovery is given against the borough, the borough shall refund the amount of the taxes to the taxpayer.

(b) If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the borough, on audit of the account in question, is satisfied that this is the case, the borough shall refund the excess to the taxpayer. A claim for refund filed after one year of the due date of the tax is forever barred.

ARTICLE 3. CITY PROPERTY TAX.

Sec. 29.53.400. POWER OF LEVY. Home rule and first class cities within boroughs may levy a general property tax. A property tax, if levied, is subject to secs. 50 and 310 - 350 of this chapter. The council shall by June 15 of each year present to the borough assembly a statement of the city's rate of levy, unless a different date is agreed upon by the borough and city.

Sec. 29.53.405. DIFFERENTIAL TAX ZONES. Cities may by ordinance establish, alter and abolish differential tax zones to provide and levy property taxes for services not provided generally within the city or a different level of service than that provided generally within the

city.

ARTICLE 4. BOROUGH SALES AND USE TAXES.

Sec. 29.53.410. SALES AND USE TAX. (a) A borough may levy and collect a sales tax not exceeding three per cent on sales or rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

Sec. 29.53.420. REFERENDUM, ADOPTION AND MODIFICATION. (a) The assembly shall hold a referendum vote on the question of levy of sales taxes. Borough sales tax propositions may be presented only once in any 12-month period.

(b) If the proposition receives a majority of the votes cast, the assembly may enact the sales tax as a levy upon buyers, sellers, or both. The sales tax is collected at the time of sale or at the time of payment in credit transactions and transmitted to the borough.

ARTICLE 5. CITY SALES AND USE TAXES.

Sec. 29.53.440. POWER OF LEVY. Cities within a borough which levies and collects sales or use taxes for areawide borough functions may levy sales or use taxes upon all sources taxed by the borough in

the manner provided for boroughs.

Sec. 29.53.450. POWER OF LEVY AND COLLECTION. Cities within a borough which does not levy and collect sales or use taxes for areawide borough functions may levy and collect sales or use taxes in the manner provided for boroughs.

Sec. 29.53.460. COMBINING SALES TAX WITH INCORPORATION. A petition for second class city incorporation may request that a sales tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the sales tax proposition. If so, the incorporation proposition fails if the sales tax fails.

CHAPTER 58. MUNICIPAL DEBT.

ARTICLE 1. TAX ANTICIPATION NOTES.

Sec. 29.58.010. TAX ANTICIPATION NOTES. A municipality may borrow money in the form of negotiable or nonnegotiable notes to meet the appropriations for a fiscal year in anticipation of the collection of taxes and revenues for that year. The aggregate principal amount borrowed may not at any time exceed 50 per cent of the appropriations for the fiscal year.

Sec. 29.58.020. FORMS AND TERMS. The assembly or council shall authorize by resolution or ordinance the sale of tax anticipation notes. Notes are in the form and denominations determined by the assembly or council, with a maturity date not to exceed the end of the next fiscal year from the date of issue.

Sec. 29.58.030. SECURITY. Tax anticipation notes are a general obligation of the municipality and payment is secured by its full faith, and credit. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

Sec. 29.56.040. SALE OF NOTES. The municipality may sell tax

anticipation notes in the manner and at the price it determines, at either public or private sale.

ARTICLE 2. BOND ANTICIPATION NOTES.

Sec. 29.58.060. BOND ANTICIPATION BORROWING. A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

(1) the general obligation bonds to be sold have been authorized by the assembly or council and ratified by a majority vote at a regular or special election;

(2) the revenue bonds to be sold have been authorized by ordinance.

Sec. 29.58.070. ISSUANCE OF NOTES. The assembly or council shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time, from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes.

Sec. 29.58.080. ISSUANCE OF NEW NOTES. If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the assembly or council shall issue new notes in order to meet payment of the notes then maturing or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes shall bear a maturity date not to exceed one year from the date of issue. Notes, new notes, and renewals of notes shall not be outstanding for a total elapsed time of more than three years.

Sec. 29.58.090. REPAYMENT OF NOTES. Every note is payable from the proceeds of the sale of bonds which the notes anticipated or from

the proceeds of the sale of new bond anticipation notes.

Sec. 29.58.100. SECURITY. (a) Notwithstanding any other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are secured by the full faith, credit, taxing power and resources of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) Notes issued in anticipation of the sale of revenue bonds and the interest on them are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued.

Sec. 29.58.110. LIMITATION. The total amount of notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued.

Sec. 29.58.120. USE OF PROCEEDS. The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes.

Sec. 29.58.130. SALE OF NOTES. Notes issued under this chapter shall be sold by the municipality in the manner and at the price it determines, at either public or private sale, but no note may be sold for less than par and accrued interest.

ARTICLE 3. GENERAL OBLIGATION BONDS.

Sec. 29.58.150. GENERAL OBLIGATION BONDS. A municipality may acquire, construct, improve and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes.

Sec. 29.58.160. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED. (a) A municipality may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority of those voting on the question at a regular or special election. Any municipal voter

may vote in the bond election, except as otherwise provided by charter or law.

(b) Before a general obligation bond issue election, the assembly or council shall have published a notice of the municipality's total existing bond indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. A notice shall include

(1) the current total general obligation bonded indebtedness, including authorized by unsold bonds of the municipality;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed valuation within the municipality.

Sec. 29.58.170. FORM AND TERMS OF SALE. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Sec. 29.58.180. PAYMENT. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) General obligation bonds issued for acquiring, constructing, improving and equipping a municipally-owned utility or other revenue-generating enterprise may be additionally secured by a pledge of the revenue derived from operation. Bonds so secured are not subject to a debt limitation imposed by a borough or city home rule charter.

ARTICLE 4. REVENUE BONDS.

Sec. 29.58.200. REVENUE BONDS. A municipality may acquire,

construct, improve and equip capital improvements to be operated upon a revenue-producing basis, and bonds for these purposes are payable solely from unpledged revenue of the public facilities for which the bonds are issued.

Sec. 29.58.205. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of revenue bonds, unless otherwise provided by ordinance.

Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest, place and manner of payment, redemption terms, registration privileges, manner of execution and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Sec. 29.58.220. PAYMENT. Bonds issued under secs. 200 - 220 of this chapter or the proceedings of the assembly or council authorizing their issuance may contain the covenants which the assembly or council considers advisable concerning

(1) the rates or fees to be charged for services rendered by the public facilities, the revenue of which is pledged to the payment of the bonds;

(2) the deposit and use of the revenue of the public facilities;

(3) the issuance of additional bonds payable from revenue of the public facilities;

(4) the rights of the bondholders in case of default in the payment of the principal or interest on the bonds, including the appointment of a receiver to operate the public facilities.

ARTICLE 5. REFUNDING BONDS.

Sec. 29.58.240. AUTHORIZATION. If a municipality has outstanding general obligation or revenue bonds and the assembly or council determines that it would be financially advantageous to refund the bonds, the assembly or council may provide by ordinance for the issuance of general obligation or revenue refunding bonds.

Sec. 29.58.250. EFFECT OF BONDS. The refunding bonds may take up and refund all or any part of outstanding bonds at or before their maturity or redemption date. The assembly or council may include various series and issues of bonds in a single issue of refunding bonds.

Sec. 29.58.260. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance of the assembly or council. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question.

Sec. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation refunding bonds are payable according to sec. 180 of this chapter. Revenue refunding bonds are payable according to sec. 220 of this chapter.

Sec. 29.58.280. SALE. General obligation or revenue refunding bonds may, in the discretion of the assembly or council, be exchanged at par for the bonds being refunded, or may be sold at public or private sale for an amount not less than par and accrued interest. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

Sec. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance. No bonds may be sold at less than par value.

Sec. 29.58.310. INTEREST RATE. No municipal bond or note may bear an interest rate exceeding the contract usury rate of interest provided by law.

Sec. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or note may be made subject to redemption before maturity as stated in the authorization or in the bond or note.

Sec. 29.58.340. BOROUGH INDEBTEDNESS. (a) Boroughs may incur indebtedness

(1) on an areawide basis for areawide functions; or

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only; payment of debt principal and interest as well as other costs shall be limited to the service area, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(b) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the entire borough is pledged for the payment of the debt of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas.

Sec. 29.58.350. INTENT. Nothing in this title authorizes the council of a second class city to levy ad valorem taxes unless such a levy is necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

In that case, assessment, levy and collection shall be made in the manner of a first class city within or outside a borough, as the case may be.

CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS.

ARTICLE 1. SPECIAL ASSESSMENTS.

Sec. 29.63.010. ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of constructing or improving capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under sec. 15(8) of this chapter. If a governmental unit other than the state benefited by an assessment refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

(1) petition to the assembly or council of the owners of one-half in value of the property to be benefited or

(2) the assembly or council.

Sec. 29.63.015. PROCEDURE. (a) The assembly or council may prescribe by ordinance the complete special assessment procedure for local improvements, including and subect to the following:

(1) the procedure for filing petitions;

(2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;

(3) a public hearing on the necessity for the local improvement;

(4) a resolution of the assembly or council determining to proceed or not to proceed with the proposed local improvement;

(5) a public hearing by the assembly or council on the

special assessment roll for the local improvement;

(6) published notice of each public hearing required by this section and mailing notice to each legal owner of record of real property within the special assessment district;

(7) a resolution confirming the special assessment roll for the local improvement;

(8) if protests as to the necessity of a local improvement are made by owners of property which will bear 50 per cent or more of the estimated cost of the improvement, the assembly or council shall not proceed with the improvement until the objections have been reduced to less than 50 per cent, except upon approval of not fewer than three-fourths of the assembly or council.

(b) If the assembly or council does not prescribe a procedure for special assessments as permitted by this section, the assembly or council shall comply with the special assessment procedures set out in secs. 20 - 70 of this chapter.

Sec. 29.63.020. DECISION AND NOTICE. (a) When an improvement proposal has been filed with the municipal clerk and presented to the assembly or council, the assembly or council shall find by resolution whether (1) the improvement request is necessary and should be made, and (2) the request has sufficient and proper petitioners. The findings of the assembly or council are conclusive.

(b) If the assembly or council passes a resolution approving an improvement proposal with the necessary findings, it shall develop a proposed improvement plan including cost estimate and the percentage of the improvement plan cost to be assessed against the property benefited. This plan is to be filed with the municipal clerk.

(c) The assembly or council shall set a time for public hearing on the improvement plan. The assembly or council shall publish a

notice at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

Sec. 29.63.025. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment may be made against "unknown owner".

Sec. 29.63.030. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the assembly or council. The assembly or council may by resolution approve the plan and proceed with the improvement if the owners of one-half in value of the property to be benefited do not object in writing.

(b) If objections are made by the owners of property bearing one-half of the estimated cost of the improvement, the assembly or council may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 per cent. A revised plan shall be approved and adopted as an original plan.

Sec. 29.63.040. ASSESSMENT ROLL. (a) At any time after project approval, the assembly or council shall assess the authorized percentage of the cost against tracts in proportion to benefit received. Assessments may not exceed actual costs.

(b) The special assessment roll contains property descriptions, names of owners of record and assessment amounts.

(c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than

15 days before the hearing.

Sec. 29.63.050. HEARING AND SETTLEMENT. After the public hearing the assembly or council shall correct errors and any inequalities in the roll. When the roll is corrected, the clerk shall so certify.

Sec. 29.63.060. PAYMENT. (a) The assembly or council shall fix times of payment, rate of interest on unpaid installments, and delinquency of assessments. Payment may not be required sooner than 60 days after assessment. Payment may be in one sum or by installments, but a sum or installment may not exceed 25 per cent of the assessed value of the property affected. Penalty and interest are the same as for real property taxes.

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, the time of delinquency, and penalties.

(c) Within five days after the statements are mailed, the clerk shall publish notice that the statements have been mailed.

(d) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.53.200 - 29.53.390 for enforcement of property tax liens.

Sec. 29.63.070. REASSESSMENT. (a) The assembly or council shall within one year correct any deficiency in a special assessment found by a court.

(b) Notice and hearing must conform to the initial assessment procedures.

(c) Payments on the initial assessment are credited to the property upon reassessment.

(d) The reassessment becomes a charge upon the property

notwithstanding failure to comply with any provision of the assessment procedure.

Sec. 29.63.080. OBJECTION AND APPEAL. (a) The regularity or validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

(b) The decision of the assembly or council upon an objection may be appealed to the superior court within 30 days of the date of confirmation of the assessment roll.

(c) If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects.

Sec. 29.63.085. SPECIAL ASSESSMENT BONDS. The assembly or council may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefited may be pledged by the assembly or council to secure a payment.

(b) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

(c) Before the assembly or council may issue special assessment

bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. Interest on the guarantee funds shall be a cost of the improvement district.

ARTICLE 2. SERVICE AREAS.

Sec. 29.63.090. SERVICE AREAS. (a) Service areas to provide special services within a borough may be established, operated, altered or abolished by the assembly by ordinance. Special services include services not provided on an areawide basis within the borough or the borough area outside cities or a higher or different level of service than that provided on an areawide basis or in the borough area outside cities. In a first class borough the assembly may exercise within a service area any power granted a first class city by general law; in a second class borough an exercise of the powers must be approved by a majority of the qualified voters residing within the service area and voting on the question.

(b) The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services.

(c) The assembly may provide for appointed or elected boards to supervise the furnishing of special services in service areas.

(d) A new service area may not be established if, consistent with the purposes of art. X of the constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

(e) The assembly may exercise or delegate to a service area any

powers which may be exercised by a first class borough in the area outside cities. In a second class borough, each exercised or delegated power must be approved by a majority vote at a regular or special election held within the service area. The rate of taxation and the issuance of bonds are subject to assembly approval.

CHAPTER 68. ALTERATION OF BOUNDARIES.

ARTICLE 1. ANNEXATION AND EXCLUSION.

Sec. 29.68.010. LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first 10 days of any regular session. The change shall become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(b) In addition to the regulations governing annexation by local action adopted under AS 44.19.260, the Local Boundary Commission shall, within 90 days of the effective date of this Act, establish procedures for annexation and exclusion of territory by cities and boroughs by local action. The procedures established under this subsection shall include

(1) a provision requiring that a proposed annexation and exclusion must be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

(2) provisions that municipally-owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) provisions that an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

ARTICLE 2. MERGER AND CONSOLIDATION.

Sec. 29.68.030. METHODS OF MERGER OR CONSOLIDATION. Two methods may be used to initiate merger or consolidation of home rule and general law municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission, or

(2) the local option method specified in secs. 40 - 110 of this chapter.

Sec. 29.68.040. PETITION. (a) Residents of two or more municipalities may file a merger or consolidation petition with the Local Affairs Agency. The petition must be signed by a number of municipal voters of each municipality equal to at least 25 per cent of the number of votes cast in its last regular election.

(b) The petition includes

(1) the name and class of each municipality;

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

(3) the proposed composition and apportionment of the assembly or council;

(4) maps, documents, and other information which show that the proposed municipality meets the standards for municipal incorporation.

Sec. 29.68.050. REVIEW. The Local Affairs Agency shall review a petition for content and signatures and shall return a deficient petition for correction or completion.

Sec. 29.68.060. INVESTIGATION. If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal.

Sec. 29.68.070. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with

its recommendations regarding the merger or consolidation.

(b) The Local Boundary Commission shall hold at least one public hearing in each of the municipalities included in the merger or consolidation petition, unless officials of the municipalities agree to a single hearing.

Sec. 29.68.080. DECISION. If the Local Boundary Commission determines that the proposed municipality fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed municipality meets these standards, it shall accept the petition. If the commission determines that the proposed boundaries or the composition and apportionment of the assembly or council can be altered to meet the standards, it may change the proposal and accept the petition. The decision may be appealed under the Administrative Procedure Act (AS 44.62).

Sec. 29.68.090. ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a merger or consolidation petition. Within 30 days after notification, the lieutenant governor shall order an election within the area to be included in the new municipality to determine whether the voters desire merger or consolidation. The election is held not less than 30 nor more than 90 days after the election order.

(b) A voter who is a resident of the area to be included within the proposed municipality may vote.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-60). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results. If merger or consolidation is approved, he shall, within 10 days, set a date for election of officers of the new municipality under

AS 29.18.120. The election date is not less than 60 nor more than 90 days after the election order. This date is the effective date for the merger or consolidation.

Sec. 29.68.100. ASSETS AND LIABILITIES. (a) When two or more municipalities merge, one municipality succeeds to the rights, powers, duties, assets and liabilities of the others.

(b) When two or more municipalities consolidate, the newly-incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

Sec. 29.68.110. ORDINANCES. The ordinances, resolutions, rules, regulations, procedures and orders of the former municipalities remain in force within their respective territories until superseded by the action of the successor municipality.

ARTICLE 3. UNIFICATION OF LOCAL GOVERNMENTS.

Sec. 29.68.240. UNIFICATION OF LOCAL GOVERNMENTS AUTHORIZED. An organized borough and all cities within the borough may unite to form a single unit of home rule local government by complying with this chapter.

Sec. 29.68.250. UNIFICATION TO BE PROPOSED BY PETITION. (a) Unification shall be proposed by petition.

(b) The borough assembly, a city council, or a person living within the area of proposed unification may initiate the petition for unification.

Sec. 29.68.260. PETITION REQUIREMENTS. (a) The petition shall read:

"PETITION FOR UNIFICATION

We, the undersigned, qualified voters of the _ _ _ _ _ _ _ _ _ Borough do hereby petition that the following two propositions be placed before the voters as provided by law:

(1) Shall the _ _ _ _ _ _ _ _ Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and majority vote from the remaining area composed of all first class and home rule cities of the borough?

Yes ☐ No ☐

(2) Knowing that the powers and responsibilities of a home rule municipality are essentially the same whether it carries the name of borough or city, I would still prefer that, if the proposition above carries, the new home rule municipality be called a:

☐ Borough

☐ City

☐ No preference (I would expect the charter commission to recommend an appropriate designation consistent with existing law.)

Signature	Address	Inside First Class or Home Rule City	Outside First Class or Home Rule City"

(b) The petition shall be signed by at least

(1) that number of qualified voters of the borough living outside all first class and home rule cities in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election; and

(2) that number of qualified voters residing in each first class and home rule city located in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election in each city.

Sec. 29.68.270. REVIEW OF PETITION. Upon receipt of a petition for unification, the borough assembly shall review the petition within 15 days after its receipt to determine whether it complies with sec. 260 of this chapter. If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied.

Sec. 29.68.280. CALL FOR CHARTER COMMISSION NOMINATIONS. Once it is determined by the borough assembly that a petition for unification meets the requirements of sec. 260 of this chapter, the assembly shall issue a call for the nomination of charter commission candidates, specifying the filing deadline and outlining the procedure described for making nominations under sec. 290 of this chapter.

Sec. 29.68.290. NOMINATION OF CHARTER COMMISSION CANDIDATES. (a) Charter commission candidates shall be nominated by petition signed by at least 50 qualified voters of the area fro. which the candidate seeks election or by a number of qualified voters from that area equal to at least 10 per cent of the number of votes cast from that area in the last regular borough election, whichever is less.

(b) Nomination petitions shall be filed with the borough clerk on or before the date fixed by the borough assembly, which date shall not be less than 30 days after notice of the call for nominations has been given through the borough.

Sec. 29.68.300. QUALIFICATIONS OF CHARTER COMMISSION CANDIDATES. A person is eligible to be nominated as a candidate for the charter commission if he has been a qualified voter of the area from which he seeks election for at least one year immediately preceding the date his nomination petition is filed with the borough clerk.

Sec. 29.68.310. COMPOSITION OF CHARTER COMMISSION. The charter

commission members shall be qualified voters and shall consist of 11 members, three of whom shall be residents elected at large from the area of the borough and eight of whom shall be (1) residents of and elected from the area outside cities in the borough or (2) residents of and elected from a city or cities in the borough. The number representing each of these areas shall be proportionate to the respective populations as determined by the Local Affairs Agency.

Sec. 29.68.320. ELECTION. (a) After receipt of a valid petition for unification, the borough assembly shall submit to the voters the question of whether that borough and all cities within it shall unite to form a single unit of home rule government. The vote shall be held at the next regular borough election scheduled at least 90 days after receipt of the valid petition.

(b) The ballots on the question of unification shall be worded exactly as in sec. 260(a)(1) and (2) of this chapter.

(c) The election of charter commission members shall take place at the same time as the election on the question of unification.

(d) All costs incurred in conducting an election under this chapter shall be paid by the borough.

Sec. 29.68.330. REQUIREMENTS FOR APPROVAL OF UNIFICATION AND ELECTION OF CHARTER COMMISSION. (a) The votes on unification shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for unification to be approved, it is necessary that a majority of the votes in each classification favor unification.

(b) If unification is approved, those charter commission candidates who received the highest number of votes from their respective

areas shall serve as members of the commission.

Sec. 29.68.340. CHARTER COMMISSION ORGANIZATION AND PROCEDURE. (a) The charter commission authorized by this chapter shall hold its first meeting within 30 days of the date of certification of its election. The commission shall elect from among its members a chairman and a deputy chairman.

(b) A majority of the total membership of the charter commission constitutes a quorum. No decision of the commission is valid or binding unless approved by that number of members necessary to constitute a quorum.

(c) The charter commission may elect other officers from among its membership, adopt rules governing its procedures and hire and discharge commission employees. Rules adopted must conform with the provisions of this chapter.

(d) Meetings of the charter commission shall be open to the public at all times. A journal of commission proceedings shall be kept and shall be available for public inspection at the borough office.

(e) Except as provided in sec. 390(e) of this chapter, vacancies on the charter commission shall be filled by a majority vote of the commission. The person appointed to fill a vacancy must be a qualified voter of the same area as the person whom he succeeds and must have been a qualified voter of that area for at least one year immediately preceding the date of his appointment.

(f) The borough assembly may grant a per diem allowance to the commission members and may reimburse the members for travel expenses incurred in carrying out the duties prescribed by this chapter.

(g) Costs, fees, and other expenses incurred by the charter commission are a debt of the borough and shall be paid upon proper verification.

Sec. 29.68.350. CHARTER PREPARATION. (a) A charter commission established under this chapter shall prepare, adopt and submit a proposed home rule charter for the area to be unified to the voters for approval or rejection at a general or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter. The charter shall include among its provisions:

(1) provisions for adjustment of existing bonded indebtedness and other obligations in a manner which will reserve a fair and equitable burden of taxation for debt service, subject to sec. 410 of this chapter;

(2) provision for the establishment of

(A) service areas;

(B) sections, if desired; and

(C) reapportionment of the sections, if established;

(3) provision for nonpartisan government and provision for the selection, organization, authority and responsibilities of the governing body and its executive;

(4) the transfer or other disposition of property and other rights, claims, assets and franchises of the local government to be unified under the charter;

(5) provision for exercise of the rights of initiative and referendum as required by AS 29.13.050;

(6) a method of amending the charter;

(7) the date on which the charter, if approved at the charter election required by sec. 390 of this chapter, is effective;

(8) designation of the new municipality's official name, subject to the provisions of (b) of this section;

(9) other charter provisions which the charter commission

elects to include and which may be included in a home rule charter under this chapter and the state constitution.

(b) The area to be unified shall be known as a borough or a city or by some other designation consistent with existing law as determined by a plurality of the votes cast at the election held under sec. 320 of this chapter.

Sec. 29.68.360. PUBLIC HEARINGS. Both before and after drafting the proposed charter, the charter commission shall hold a public hearing in each area of the borough represented on the borough assembly. Other public hearings may be held by the charter commission whenever and wherever it believes necessary and appropriate.

Sec. 29.68 370. FILING OF PROPOSED CHARTER. Upon the adoption of a proposed home rule charter by th. charter commission, the charter shall be signed by at least a majority of the total membership of the commission and shall be filed with the borough clerk. A copy with signatures affixed shall also be filed with the clerk of each city within the borough.

Sec. 29.68.380. PUBLICATION AND POSTING OF PROPOSED CHARTER. Within 10 days after filing the proposed charter, the borough clerk shall have it published once in at least one newspaper having general circulation within the borough, if there is a newspaper having general circulation within the borough. In addition, the clerk shall have a copy of the proposed charter posted in at least three public places within each city of the borough and each area outside cities. Copies of the proposed charter shall be made available by the borough assembly to the public at both the office of the borough clerk and the office of the clerk of each city within the borough. The clerk shall publish notice by radio and television of the publication, posting, and availability of the proposed charter in a manner intended to apprise

the entire borough population of the existence of the proposed charter.

Sec. 29.68.390. ELECTION ON CHARTER. (a) The proposed charter adopted by the charter commission shall be submitted to the voters for ratification or rejection at the borough election specified in sec. 350 of this chapter. The borough clerk shall prepare the ballots for use in the election and shall give published notice of and otherwise conduct the election in the manner in which regular municipal elections are conducted. In addition, the clerk shall publish notice of the election by radio and television in a manner intended to apprise the entire borough population of the election.

(b) A person who is a qualified voter of the borough may vote in the election on the proposed charter.

(c) If a majority of the votes cast in the area of the borough outside all first class and home rule cities and a majority of the votes cast in the remaining area of the borough, composed of all first class and home rule cities, are cast in favor of the proposed charter, the charter is ratified. If the charter is ratified, two copies of the charter shall be filed with each of the following authorities:

(1) lieutenant governor;

(2) director of the Local Affairs Agency;

(3) district recorder for the area of the borough;

(4) clerk of the borough;

(5) clerk of each city in the borough.

(d) If a proposed charter is rejected, the charter commission shall prepare, adopt and submit a proposed charter to the voters at a general or special borough election called by the borough and held within one year of the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of unification shall be treated as if it

had never been proposed or approved.

(e) If after the rejection of the first proposed charter, more than one-half of the charter commission members resign from the commission, the borough assembly shall appoint new members to fill the vacancies in accordance with sec. 110(e) of this chapter.

Sec. 29.68.400. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon ratification, the charter of a unified municipality organized under secs. 240 - 440 of this chapter operates to dissolve all local governments within the area of unification in accordance with the charter.

Sec. 29.68.410. ASSETS AND LIABILITIES. A municipality created by unification shall succeed to all the assets and liabilities of the local governments it unified. A bonded indebtedness or other debt incurred before unification shall remain the tax obligation of the area which contracted the debt, except that the tax obligation may be spread over a larger area by ordinance if the governing body determines that the asset for which the bonded indebtedness or other debt was incurred was used for the benefit of the larger area before unification, or is so used after unification. However, pre-unification bonded indebtedness or other debt for sewage collection systems, water distribution systems, and streets, even if determined to be used for the benefit of a larger area than that which incurred the debt, shall remain the tax obligation of the area which incurred the debt.

Sec. 29.68.420. ORDINANCES. Within two years after ratification of the charter, the governing body of the unified municipality shall revise, repeal, or reaffirm all borough and city ordinances, resolutions and orders in force within the borough at the time of unification. Each ordinance, resolution, regulation, or order in force at the time of unification shall remain in force until superseded by action of the new governing body.

Sec. 29.68.430. RIGHT TO STATE AND FEDERAL FUNDS PRESERVED. All provisions of law authorizing contributions of any kind, in money or otherwise, from the state or federal government to boroughs and cities shall remain in full force and effect with respect to a unified municipality organized under secs. 240 - 440 of this chapter.

Sec. 29.68.440. POWERS OF A UNIFIED MUNICIPALITY. A municipality organized under secs. 240 - 440 of this chapter shall have all powers

(1) not prohibited it by law or charter;

(2) granted to organized boroughs and first class cities.

ARTICLE 4. DISSOLUTION.

Sec. 29.68.500. METHODS OF DISSOLUTION. (a) Two petition methods may be used to initiate dissolution of home rule and general law municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission; or

(2) the local option method specified in secs. 510 - 580 of this chapter.

(b) A home rule or general law borough is dissolved when its entire territory is included within a home rule or first class city or cities. A city is dissolved when all its powers become areawide borough powers.

(c) The Local Affairs Agency shall investigate a municipality which it considers to be inactive and shall report to the Local Boundary Commission on the status of the municipality. The commission may submit its recommendation to the legislature that the municipality be dissolved in the manner provided for submission of boundary changes in sec. 12, art. X of the state constitution.

Sec. 29.68.510. PETITION. (a) Municipal residents may file a dissolution petition with the Local Affairs Agency in the form

prescribed by the agency. The petition must be signed by a number of municipal voters equal to at least 25 per cent of the number of votes cast in the last regular municipal election.

(b) The petition includes

(1) the name of the municipality;

(2) maps, documents, and other information showing that the municipality meets the standards for dissolution.

Sec. 29.68.520. STANDARDS. (a) Except as provided in (b) of this section, a municipality may petition for dissolution when

(1) it is free of debt, or if in debt, each of its creditors is satisfied with a method of repayment; and

(2) either it no longer meets the minimum standards prescribed for incorporation by ch. 18 of this title, or it ceases to use each and every one of its mandatory powers.

(b) A home rule or general law city in a borough may petition for dissolution if the borough consents to assume the city's rights, powers, duties, assets and liabilities. The consent must be ratified by a majority of borough voters voting on the question.

Sec. 29.68.530. REVIEW. The Local Affairs Agency shall review a petition for content and signatures and shall return a deficient petition for correction or completion.

Sec. 29.68.540. INVESTIGATION. If the petition contains the required information and signatures, the Local Affairs Agency shall investigate the proposal.

Sec. 29.68.550. REPORT AND HEARING. (a) The Local Affairs Agency shall report its findings to the Local Boundary Commission with its recommendation regarding the dissolution.

(b) The Local Boundary Commission shall hold at least one public hearing in the area proposed to be dissolved.

Sec. 29.68.560. DECISION. If the Local Boundary Commission determines that the municipality fails to meet the standards for dissolution, it shall reject the petition. If the commission determines that the municipality meets the standards, it shall accept the petition.

Sec. 29.68.570. ELECTION. (a) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a dissolution petition. Within 30 days after notification, the lieutenant governor shall order an election within the municipality to determine whether the voters desire dissolution. The election is at least 30 and not more than 90 days after the election order.

(b) A person who is a qualified voter of the municipality may vote in the dissolution election.

(c) The lieutenant governor shall supervise the election in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-50). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results. If dissolution is approved, he shall declare that the municipality is dissolved effective on the date of certification.

Sec. 29.68.580. SUCCESSION. The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities as provided in AS 29.18.140 - 29.18.150.

CHAPTER 73. MISCELLANEOUS PROVISIONS.

Sec. 29.73.020. EMINENT DOMAIN. A municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250 - 09.55.460.

Sec. 29.73.030. ADVERSE POSSESSION. A municipality may not be divested of title to real property by adverse possession.

Sec. 29.73.040. TAXATION OF MUNICIPALITIES. No state law or

regulation may assess or tax, or be construed to assess or tax, home rule or general law cities or boroughs of this state, unless the law or regulation expressly provides that the cities or boroughs are to be assessed or taxed by the particular law or regulation.

Sec. 29.73.050. CHANGE OF MUNICIPAL NAME. (a) The governing body of a home rule or general law municipality may change the official municipal name by adopting an ordinance for the purpose and filing the ordinance with the office of the lieutenant governor. Upon receipt of a legally adopted ordinance ratified by the qualified voters voting on the question at a regular or special election, the lieutenant governor shall issue an appropriate order to the municipality changing its existing name. The name change shall become effective on a date fixed in the order and occurring within 45 days of receipt of the ordinance. A copy of the order shall be transmitted to the Local Affairs Agency.

(b) If an ordinance adopted under (a) of this section which results in an order changing the municipal name is subsequently repealed, the lieutenant governor shall issue a further order reinstating the former municipal name within 45 days of the date of the order, unless a different municipal name is adopted by ordinance transmitted to the lieutenant governor for implementation as provided in (a) of this section.

(c) When a municipal name change takes effect by means of an order issued under (a) or (b) of this section, civil or criminal suits, applications, petitions, hearings and other proceedings to which the municipality is a party and pending at or brought after the date the name change takes effect shall proceed in the name of the municipality as changed by the order.

CHAPTER 78. GENERAL PROVISIONS.

Sec. 29.78.010. DEFINITIONS. In this title, unless otherwise

provided or the context otherwise requires,

(1) "borough" means a general law first, second, or third class organized borough;

(2) "city" means a general law first or second class city;

(3) "conditional use" means exception, special exception, special use, or special permit designated in the zoning ordinance;

(4) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(5) "general election" means the state election held on the Tuesday after the first Monday in November of even-numbered years;

(6) "majority" means a simple majority;

(7) "merger" means dissolution of a municipality and its absorption by another municipality;

(8) "municipality" means a general law municipal corporation, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the state;

(9) "owner", "record owner", or "owner of record" means owner of record or purchaser of record;

(10) "published" means appearing at least once in a newspaper of general circulation distributed within the municipality or, if there is no newspaper of general circulation distributed within the municipality, posting in three public places for at least five days;

(11) "regular election" means the municipal election held on the Tuesday following the first Monday in November of even-numbered years, or at an interval of years provided by ordinance;

(12) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(13) "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the

purpose, whether immediate or future, of sale or building development, includes resubdivision, and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided;

(14) "voter" means a United States citizen who has been a resident of Alaska for one year and of the municipality for 30 days immediately preceding the election and who is registered to vote in state elections, or meets registration requirements of the municipality if any and is not disqualified under art. V of the state constitution.

* Sec. 3. A right or liability of a home rule or general law city or borough existing on the effective date of this Act is not affected by the enactment of this title. All existing ordinances remain in force and effect for a period of 90 days from the effective date of this Act, unless earlier superseded, in order to permit amendment of the ordinances to comply with the provisions of this title. The terms of elected local officials within home rule and general law cities and organized boroughs who are incumbents in office on the effective date of this Act are not affected by this Act. Their terms expire as provided before the enactment of this title. Their successors are elected on the date provided before the enactment of this title and serve for terms to conform with the provisions of this title.

* Sec. 4. AS 14.12.050 is amended to read:

Sec. 14.12.050. SCHOOL BOARD TERMS. (a) The term of office of a member of a borough or city school board is two [THREE] years, unless different terms not to exceed three years are provided by ordinance, and until a successor takes office. However, if three-year terms are provided, the members of a newly created five-man school board hold office for initial terms as follows: two for a term of three years, two for a term of two years and one for a term of one year, the terms being assigned to the members by lot. If three-year terms are provided, the [THE] members of a newly created seven-man school board hold

office for initial terms as follows: three for a term of three years, two for a term of two years and two for a term of one year, the terms being assigned to the members by lot.

(b) When a transition is made from a five-man school board to a seven-man school board new members shall be elected as follows, if three-year terms are provided: at the first regular school election after the district becomes eligible for a seven-man school board there shall be elected, in addition to the successor or successors to be elected for a regular term, a new member for an initial term of two years and until a successor takes office, and a new member for an initial term of three years and until a successor takes office.

(c) Nothing in this section prevents a school board member from succeeding himself.

* Sec. 5. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.037. ZONING REGULATIONS IN THE UNORGANIZED BOROUGH TO FACILITATE FEDERAL LAND SALES. (a) In areas of the unorganized borough where there is no political subdivision of the state with a zoning power, the division of lands shall exercise the zoning power by adopting zoning regulations.

(b) The division of lands shall exercise its zoning power within federal lands in the unorganized borough only at the times and in the areas it is requested to do so by the Secretary of the Interior to facilitate sales of federal lands within the unorganized borough under Public Law 88-608, 78 Stat. 988.

(c) Any zoning done by the division of lands under (b) of this section is final unless disapproved by concurrent resolution at the next regular session of the legislature.