

HB

110

February 17, 1977

The Honorable Hugh Malone, Speaker
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Hugh:

Attached to this letter is a proposed sponsor or committee substitute to HB 110 of draft legislation which would correct or otherwise clarify certain portions of Title 29 from a basically technical viewpoint. In preparing this draft legislation it was our intent not to, in any way, deal with issues involving policy or subjects that might be controversial in nature. I believe that as you read the draft legislation, most proposed changes will be self-explanatory; therefore, I will not attempt to go into detailed explanation as to the background for each of the changes.

By way of general background, Commissioner McAnerney had earlier requested that the Division assume responsibility for reviewing all of Title 29 and to make an attempt to correct those obvious errors or omissions which were apparent in the 1972 legislation or which have been caused by subsequent amendments to the original 1972 version of Title 29. In July, the Department sent a letter to all municipalities requesting their input or suggested amendments to Title 29. Additionally, four attorneys were invited to a meeting which included Billy Barrier and Greg Machyowski (of Legislative Affairs Agency), Jim Nordale (attorney for the Fairbanks North Star Borough), and Karl Walter (formerly city attorney for the City of Anchorage and now a private practitioner). The language of the attached draft legislation (with the exception of sections 1, 7, & 15) is the result of that all-day meeting between the Division of Local Government Assistance and the four attorneys who primarily drafted the 1972 version of Title 29.

Section 1 of the proposed draft may not be technically considered "clean-up" legislation but provides what we in this Division feel would permit a "streamlined" mechanism to allow earlier home-rule charter adoption of a municipality upon incorporation.

On November 15, 1976, the Division received a letter from Wes Howe, borough manager of the Matanuska-Susitna Borough, calling to our attention some technical

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deficiencies in AS 29.23.310. Therefore, section 7 of the attached draft is the language proposed by the borough attorney from the Matanuska-Susitna Borough to correct that one problem area. Section 9 of the proposed draft achieves the same purpose as your HB 110.

Section 15 of the proposed draft re-enacts identical language passed by the legislature last year. However, the AG's office has ruled that this enactment would be held invalid since it was contained in a bill which amended Title 43 (thus violating the two subject rule). Ketchikan Gateway Borough administration reminded us of the need to have this provision re-enacted into Title 29. The AG's office has advised that re-enactment of the language is appropriate.

Representative Lisa Rudd has indicated a willingness to consider our proposal as a sponsor or committee substitute but requested that I meet with you for your concurrence.

I hope that you will be able to propose this additional language as a sponsor substitute or that, in the alternative, you will have no objection to allowing this proposal to be considered as a committee substitute for HB 110.

I look forward to discussing this with you at 3:30 tomorrow afternoon.

Sincerely,

Lee McAnerney
Commissioner

By: Palmer McCarter
Director

LMcA: PMcC: sg

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JAY S. HAMMOND, GOVERNOR

POUCH B - JUNEAU 99811

March 29, 1977

The Honorable Lisa Rudd
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Analysis of Legislation to "Clean-Up" Title 29

Dear Representative Rudd:

An analysis of the attached draft legislation amending Title 29 is made to explain the effects of the proposed amendments as well as identify the "sponsors" of same. When reference is made to "municipal attorneys" as sponsors, this refers to the group invited to attend a one day seminar in Juneau to review Title 29. The four involved were all active in the original Alaska Municipal League draft of the 1972 version of Title 29 and include Billy Barrier, Greg Machyowski, Jim Nordale and Karl Walter.

Section 1

Newly incorporated first class boroughs would be able to form home rule municipalities in a more timely manner than existing statutes allow. Currently, a region desiring to incorporate as a home rule borough must first incorporate as a first class borough and then proceed to pose the question of establishing a charter commission. This two-step process would be accelerated since a charter commission could be created at the incorporation election; individual commission members would be elected at a special election to be held "not less than 30 nor more than 90 days after the date of the election order". The Local Government Assistance Division (LGAD) has proposed this section to encourage the development of home rule, borough government.

Section 2

The new sentence clarifies the date that newly elected assemblymen assume office. This new language is the same as that for city councilmembers (AS 29.23.200(c)). This section was proposed by the municipal attorneys.

Sections 3, 4 and 5

Amend existing provisions of law by removing redundant language in Sections 29.23.130(c), 29.23.200(c) and 29.23.250 (d) providing that the regular date of election is "the first Tuesday of October...". This language is considered redundant because AS 29.28.020 already specifies that "the first Tuesday of October..." is the regular date for municipal elections. These amendments were suggested by the municipal attorneys.

Section 6

The amendment allows cities to conduct emergency meetings. Boroughs under AS 29.23.060, may conduct emergency meetings, and similar language has been introduced to permit cities the same privilege. LGAD was the sponsor of this amendment and the municipal attorneys have concurred.

Section 7

The election of school board members from zones within a school district is currently permitted under AS 29.23.310. However, AS 29.23.100 which implements the creation of the zones was repealed by section 16, chapter 118, SLA 1972. Section 7 describes a process which creates these zones. The sponsor of this section is the attorney for the Matanuska-Susitna Borough.

Section 8

The amendment removes what is considered to be unnecessary reference language, thereby clarifying the meaning of this particular section. The amendment is proposed by the municipal attorneys.

Section 9

Cities within 25 miles of the boundary of the borough seat may not be permitted to have their councils act as a board of adjustment or assume other planning responsibilities for the area within the city limits. This prohibition is eliminated. The municipal attorneys group sponsored this section as has Representative Malone through his introduction of HB 110 which has passed the House and is now in Senate C & RA.

Section 10

The amendment makes AS 29.33.110(a) consistent with the immediately preceding amendment by deleting the reference to 29.33.070(b)(1). The municipal attorneys sponsored this amendment.

Section 11

By removing the reference to "planning commission acting as the platting board" and substituting the term borough any ambiguities as to who is the final decision making authority is removed. (It has been argued that the planning commission is not subject to assembly review and approval when acting as the platting board). The municipal attorneys sponsored this amendment.

Section 12

Accomplishes the same purpose as the amendment in Section 11. Again, the municipal attorneys are the sponsor.

Section 13

This section essentially restates language contained in AS 29.48.200, which provides for required codification of ordinances. The municipal attorneys sponsored this amendment.

Section 14

Through the deletion of the six words "by the council" and "by the city" this section makes clear that which might otherwise appear to be unclear. Both cities and boroughs would now be covered by AS 29.48.180(C)(2). The sponsor is the municipal attorneys group.


Section 15

The proposed language reenacts the identical language passed by the legislature last year (SLA 1976, Chapter 56). However, the AG's office ruled that this enactment would be held invalid since it was contained in a bill which amended, Title 43 (thus violating the two subject rule). The AG's office has advised that reenactment of the language is appropriate. The Ketchikan Gateway Borough has requested this reenactment.

Sincerely,

Lee McAnerney
Commissioner

by:


Palmer McCarter
Director

LMC: PMC/pc

Attachment