

HB

384



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

DATE: 4/18/79

BILL NUMBER AND TITLE: HB384 Composition and Apportionment of Borough Assemblies

ORIGINAL SPONSOR : Branson, Malone, Parker

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: Judiciary

MEMBERS PRESENT:

Bill Parker X  
Margaret Branson X  
Pat O'Connell X

Pat Carney X  
Charlie Parr X  
Fred Zharoff Y  
Ray Metcalfe X

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Branson - Offered revised work draft for consideration by the Committee. Reviewed basic concepts of HB384.

Parr-- Suggests elimination of "elected by or appointed from" p. 2 lines 2-3. Or strike "by" and "from"

Chitwood - Municipal League has no position on the bill but suggests retaining options for municipalities to choose their own method of representation.

Palmer McCarter - Dept. of C&RA supports the concepts in the bill. Also supports options for method of local government representation.. Weighted voting needs to be removed. Court decision has declared institutionalized representation unconstitutional.

Eleven members on an Assembly should be adequate. Kenai is the only general law municipality which exceeds this number.

Questions raised as to the need for separate classifications for voter approval. (p. 2 lines 26-29)

COMMITTEE ACTION: Action to be continued.

4/27/79 HB384 Basically incorporated into H CSSB 137

TAPE # 7

SIDE

2

Sections 633-1150

*Margaret.*  
As soon as my Committee gets its draft and,  
I will forward it to you. We are addressing  
most of these questions. I hope that we make  
good progress.  
*OK*

1 IN THE HOUSE

BY BRANSON

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the composition and apportionment  
7 of borough assemblies; and providing for an effective  
8 date."

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

0 \* Section 1. AS 29.23 is amended by adding new sections to read:

1 Sec. 29.23.021. ASSEMBLY COMPOSITION AND APPORTIONMENT. (a)

2 Assembly composition and apportionment shall be consistent with the  
3 equal representation standards of the Constitution of the United States.

4 (b) The assembly of a newly incorporated borough is, after incor-  
5 poration and until the adoption of an ordinance providing for a change  
6 in composition or apportionment, composed of the number of members and  
7 apportioned as set out in the incorporation petition approved by the  
8 voters. If a borough is already incorporated, the assembly shall be  
9 composed and apportioned in a manner that is consistent with AS 29.23.-  
0 023 and prescribed by charter or ordinance.

1 (c) An assembly may not provide for weighted voting.

2 Sec. 29.23.023. COMPOSITION AND REPRESENTATION REQUIREMENTS FOR

3 GENERAL LAW BOROUGHS. (a) The assembly of a general law borough may  
4 not be composed of more than 11 members. *OK To Large Num.*

5 (b) The assembly of a general law borough shall provide, by ordi-  
6 nance, that members of the borough assembly are

7 (1) elected at large by all qualified voters of the borough;

8 (2) elected at large by all qualified voters of the borough

9 but required to live within an election district or zone established by

Some mechanism other than the way will at the elected Assembly, how should be looked at. I will have to think some more about that.

I prefer #3 We are working now on these very questions. #2 as an alternative

the borough for the election of borough assembly members; or (3) elected by and from election districts or zones established by the borough for the election of borough assembly members.

(c) A member of the assembly of a general law borough may not be elected or appointed by and from the council of a city in the borough.

This will be very controversial. - My experience is that it is a hell of a lot of work to save on both, but it keeps a year close to the city's problems. It also helps to have a good second assembly man if you know what I mean.

Sec. 29.23.025. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a) Not later than July 31, 1981, and, thereafter, within four months after the official report of a federal decennial census, the assembly shall determine and declare by resolution if the existing apportionment of the assembly meets the applicable standards of AS 29.23.021 - 29.23.023.

(b) If the existing apportionment of the assembly does not meet the applicable standards of AS 29.23.021 - 29.23.023, the assembly shall provide by ordinance for its reapportionment. At the same time, the assembly may change the composition of the assembly.

(c) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide by ordinance for its reapportionment and may provide for a change in its composition whenever it determines, on the basis of federal census

reports or other reliable population data, that the existing apportionment does not meet the standards for apportionment in AS 29.23.021. If a petition signed by not less than 50 borough voters requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.23.021, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly shall make the determination requested.

To Low no could be reapportioning all the time with a Federal Census Every five yrs. that clause maybe could be eliminated.

(d) An ordinance adopted by the assembly under this section shall be submitted to the voters for approval. The vote on an ordinance submitted to the voters shall be tabulated in two separate classifications. One classification shall consist of all votes cast in

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Reapportioned

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A STAND BUT for one segment of population  
if they feel they should  
reply about*

1 the first class and the home rule cities in the borough. The other  
2 classification shall consist of all votes cast in the remaining areas of  
3 the borough. In order for the ordinance to be approved it must receive  
4 majority approval in each classification.

5 (e) Within four months of a determination by the assembly that the  
6 current apportionment does not meet the standards of AS 29.23.021 -  
7 29.23.025; the assembly shall adopt an ordinance providing for reapportionment,  
8 and submit the ordinance to the voters. If, at the end of the  
9 four month time period, an ordinance providing for reapportionment has  
10 not been approved, the Department of Community and Regional Affairs  
11 shall provide for the reapportionment in accordance with the standards  
12 of AS 29.23.021 - 29.23.023.

13 (f) A reapportionment ordinance, or a determination of the borough  
14 assembly that applicable standards do not require adoption of a change  
15 in apportionment, is subject to judicial review.

16 (g) A change in assembly apportionment or composition under this  
17 section is effective beginning with the first regular election for  
18 members of the assembly which follows approval of a reapportionment  
19 ordinance.

20 \* Sec. 2. AS 29.13.100(3) is repealed and re-enacted to read:

21 (3) AS 29.23.021; 29.23.025 - 29.23.050 (composition and  
22 apportionment of borough assembly; borough assembly recomposition and  
23 reapportionment; assembly representation)

24 \* Sec. 3. AS 29.18.050(4) is amended to read:

25 (4) composition and apportionment of the assembly or council,  
26 but the number of members of a borough assembly may not exceed 11; CK.

27 \* Sec. 4. AS 29.23.040 is amended to read:

28 Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected  
29 for three-year terms and until their successors are selected and have





# KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

DON GILMAN  
MAYOR

April 11, 1979

Hon. Bill Parker, Chairman  
House Community and Regional Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 343 and HB 384

Dear Mr. Parker:

Attached is an excerpt of the Kenai Peninsula Borough  
assembly minutes of April 3, 1979.

Please note the assembly opposes both bills.

Yours very truly,

*Frances Brymer*  
(Mrs) Frances Brymer,  
Borough Clerk

enc.

fb

(c) OEDP (Fischer/Moses)

Mr. Fischer reported the General Committee met and although the economic status of the borough is in a low, there is more activity in Seward than any other area. Mayor O'Reilly of Kenai reported there may be a chopstick factory in Kenai which will employ 40 people.

Mr. Moses reported Mr. Don Wold, Director, Alaska Royalty Oil Board, stated that Bonner and Moore is the consultant helping the Royalty Board in promotion and development program of a petrochemical industry. He indicated the first step to consider before inviting the petrochemical industry to the community is for that community to know what it wants and be ready to accept the consequences. The next step is to do the research then contact local oil companies for their help. It seems that community leaders talk too much and act too little.

(d) Finance Committee

Mr. McCloud reported the committee discussed the school budget and will have recommendations by the next meeting. The personal property taxes were also discussed. The recommendation on Ord. 79-13 is to postpone until further study.

(e) Solid Waste (no report)

(f) Roads and Trails Committee

Mr. Long reported the committee met last night and discussed the proposed legislation. At a future date, Mr. Bob Hadline, Regional Engineer from Anchorage, will be meeting with the committee and he will travel over some of the roads to be improved.

(g) Ports and Harbors Committee

Mr. Arness reported the committee has not had a meeting, but he had previously reported a representative of Woodward-Clyde would be present April 17 to make a presentation. Due to illness this representative will make his presentation May 1 instead.

(h) Local Affairs Committee

Mr. Campbell reported the work on the service area board's responsibilities and duties has been completed. The ordinance will be introduced April 17. It will be sent to all service area board members and at the public hearing anyone may make comment.

It is expected the attorneys on reapportionment will be at the next meeting of the committee on April 17.

(i) Legislative Overview Committee

Mr. Long reported HB 343 and 384 were included in the packet for study. The committee would like to receive recommendations from the assembly to present to the legislature on these bills.

ASSEMBLYMEMBER CORR MOVED THE ASSEMBLY GO ON RECORD AS OPPOSING HB 343 AND 384.

Mr. Campbell reported he has sent Mrs. Branson his comments on the reapportionment bill and cautioned her that the assembly is addressing many of these points. It may well be that from

the legal advice received, the assembly may have to seriously consider some of these points as an avenue to provide proper apportionment.

On HB 343, Mr. Campbell did not feel the assembly could or would mandate the control of land to a village of at least 25 persons.

Mr. Arness stated that by looking at districting of the state legislature, it is obvious it does not work well. As an example, he cited the case of the senator representing the Seward area while residing in Palmer.

Mrs. Dimmick did not believe a bill which was as poorly written as HB 343 would go anywhere. It could be very detrimental to various areas of the state.

Mr. Campbell requested division of the question.

QUESTION WAS CALLED ON OPPOSING HB 343 AND THE MOTION PASSED BY A VOTE OF 106.83 "YES" TO 7.5 "NO"; Campbell voting negatively.

QUESTION WAS CALLED ON OPPOSING HB 384 AND THE MOTION PASSED BY A VOTE OF 196.83 "YES" TO 7.5 "NO"; Campbell voting negatively.

#### J. MAYOR'S REPORT

##### (a) Tentative General Government Budget FY 1979-80

Mayor Gilman reported the tentative budget is submitted at this time to assist in examining the status of the School District and General Government proposed FY 1979-80 budgets. The general government budget has not been entirely finalized, however, the data reflects where the borough stands at this time in projecting for the coming year.

#### K. SCHOOL CONSTRUCTION REPORT

##### (a) Furniture and Equipment List (Anchor Point Elem., Seward and Soldotna High Schools (Appv. 3-19-79)

ASSEMBLYMEMBER LONG MOVED TO APPROVE THE FURNITURE AND EQUIPMENT LISTS FOR ANCHOR POINT ELEMENTARY, SEWARD AND SOLDOTNA HIGH. VOTE WAS UNANIMOUS.

##### (b) Memo 79-63 "Minor Capital Projects Report

During the discussion of the memo, Mrs. Douglas objected to the system of budgeting items such as the \$90,000 designated for relocating 6 portables and then finding only two portables need to be moved; also budgeting for paving hockey rinks that will not be paved. Then the borough decides to take these funds, which should have been returned to the general fund and plans to build a teacherage at English Bay. She protested this type of budgeting procedure and committing \$125,000 to building a teacherage that the assembly has heard nothing about.

Mrs. Dimmick asked about problems with the roof of the new addition at Tustumena and Mr. Hakert explained there are design problems at the Sterling and Tustumena Schools. These are mainly caused by the addition of insulation which the borough requested and this in turn caused some glaciering and other roof problems. The administration will meet with the architect on defects in the design which may have been his responsibility.



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**Chapter 23. Municipal Officers and Employees.**

**Article**

1. Borough Assembly (§§ 29.23.010—29.23.100)
2. Borough Executive and Administrator (§§ 29.23.130—29.23.180)
3. City Council (§§ 29.23.200—29.23.220)
4. City Executive and Administrator (§§ 29.23.240—29.23.290)
5. School Boards (§ 29.23.310)
6. Utility Boards (§ 29.23.340)
7. Other Officers and Employees (§§ 29.23.360—29.23.401)
8. Adoption or Repeal of Manager Plan (§§ 29.23.410—29.23.480)
9. Miscellaneous Provisions (§§ 29.23.500—29.23.580)

**Article 1. Borough Assembly.**

**Section**

10. General power
20. Composition, apportionment, and reapportionment
30. [Repealed]
40. Regular term of office
50. Qualifications

**Section**

60. Procedure
70. Departments
80. Assembly vacancies
90. [Repealed]
100. [Repealed]

HB 384

**Sec. 29.23.010. General power.** The legislative power of a borough is vested in the assembly. (§ 2 ch. 118 SLA 1972)

Establishment of department and procedures for exercise of areawide power. — The establishment of a department and of standards and procedures to be used in the exercise of an areawide power is a task for the borough assembly, in which is vested the general legislative power. 1962 Op. Att'y Gen., No. 9.

The borough assembly may set up a board of health as an advisory board and be substantially guided by such a board of health in its exercise of the public health power, as long as the borough assembly is the body finally expressing the public health power. 1962 Op. Att'y Gen., No. 9.

Borough chairman cannot serve on borough assembly. — To permit the borough chairman to serve on the borough assembly would constitute a clear violation of this section, and would violate the common law prohibition against holding incompatible offices. 1963 Op. Att'y Gen., No. 27.

But positions of borough assemblyman and school board representative can be served concurrently. — A person elected to the positions of borough assemblyman and borough school board could properly exercise the powers, privileges and duties of both offices concurrently. 1963 Op. Att'y Gen., No. 27.

**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 October 14, 1972, 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

4 mos.

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.

*Same*

(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 Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

*Same*

(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 Department of Community and Regional Affairs in the same manner as prescribed for reapportionment in (c) of this section.

*Same*

(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 Department of Community and Regional Affairs 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.

*same*

(g) This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 12 ch 118 SLA 1972; am § 9 ch 200 SLA 1972)

**Cross reference.**—See Editor's note to AS 29.18.120.

**Effect of amendments.** — The first 1972 amendment rewrote this section.

The second 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in the last sentence of subsections (c) and (d), and in the first sentence of subsection (f).

This section provides a convenient method for reapportioning whenever necessary. 1965 Op. Att'y Gen., No. 5.

It does not indicate what population data may be used by the reapportioning agency. 1965 Op. Att'y Gen., No. 5.

However, the agency may use population data other than official census figures in reapportioning seats or votes. 1965 Op. Att'y Gen., No. 5.

The only limit imposed by this section is that a reapportionment plan may not take effect until the next assembly election. 1965 Op. Att'y Gen., No. 5.

**Sec. 29.23.030. Election and appointment.**

Repealed by § 16 ch 118 SLA 1972.

**Cross reference.**—See Editor's note to AS 29.18.120.

**Editor's note.**—The repealed section derived from § 2, ch. 118, SLA 1972.

**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. (§ 2 ch 118 SLA 1972; am § 13 ch 118 SLA 1972)

**Cross reference.**—See Editor's note to AS 29.18.120.

**Effect of amendment.** — The 1972 amendment rewrote this section.

**Editor's note.**—Section 20, ch. 118, SLA 1972, provides: "The terms of

elected officials who are incumbents on September 10, 1972, are not affected by this Act. Their terms expire as provided before enactment of this Act."

**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.

## Chapter 23. Municipal Officers and Employees.

### Article 1. Borough Assembly.

#### Sec. 29.23.010. General power.

Lack of a valid legislative body would not prevent the valid incorporation of a municipality. This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body.

*Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

#### Sec. 29.23.020. Composition, apportionment, and reapportionment.

Section supersedes home-rule enactments. — By AS 29.13.100 the legislature has specifically provided that this section supersedes existing and prohibits future home-rule enactments which provide otherwise. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Section is ambiguous as to when voter ratification of subsequent apportionment plan required. — This section is ambiguous as to whether there must be voter ratification of an apportionment plan when the existing plan has not been determined to be unconstitutional. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Such ratification is required when existing plan not found unconstitutional. — Voter ratification of a subsequent apportionment plan is required when the existing plan has not been determined to be unconstitutional. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Authority to alter apportionment, etc., when apportionment is unconstitutional. — The assembly is required to take action when it determines that the apportionment of its assembly fails to meet the standards of the equal protection clause of the United States Constitution. Under those circumstances, authorization is granted to the assembly to make changes in its composition as well as to make the necessary reapportionment. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

But section is ambiguous as to authority when apportionment not found unconstitutional. — This section is

ambiguous as to whether the assembly may alter either its apportionment or composition when the existing arrangement has not been found by the assembly to be unconstitutional. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

This section may have several referents: (a) that the make-up of the assembly may initially be composed and apportioned in a manner prescribed by the charter or ordinance, (b) that there may be changes made in the composition and apportionment by charter or ordinance at any time or (c) such changes may only be made in the manner spelled out in subsections (b) and (d) of this section which mandate such changes when the assembly apportionment fails to meet equal representation standards. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

The words in subsection (a), "... If a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance," while not ambiguous in themselves, refer to several different possible applications. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

This particular ambiguity is best resolved in favor of the assembly having the power of reapportionment itself or alter its composition even when there has been no determination of unconstitutionality. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Section is ambiguous as to when election required for reapportionment. — Taking in conjunction this section's silence

as to whether an election is required for reapportionment with its silence on the power of the assembly to reapportion in the absence of a determination of unconstitutionality, the supreme court found ambiguity exists as to whether an election is required. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 523 P.2d 450 (1974).

The legislature intended that all reapportionment ordinances be submitted to the electorate. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 523 P.2d 450 (1974).

### Sec. 29.23.060. Procedure.

#### Cross reference.

As to abstaining from official action when there is a conflict of interests, see AS 29.23.555.

## Article 2. Borough Executive and Administrator.

### Section

#### 130. Power generally

### Sec. 29.23.130. Power generally.

(b) A borough voter is eligible to be borough mayor. The assembly may by ordinance establish residence requirements for candidates for borough mayor not exceeding three years.

(e) A borough adopting a manager plan may, by agreement with a city, enter into a contract providing for the manager of a city located within the borough to serve also as borough manager. A city adopting a manager plan may, by agreement with a borough, enter into a contract providing for the manager of a borough within which the city is located to serve also as city manager. Appointment and service of the manager shall be as otherwise provided for managers in §§ 130 — 150 and §§ 450 — 470 of this chapter. Nothing in this subsection affects the authority of the assembly or council to provide for other dual officeholding if the dual offices held are compatible or otherwise to appoint officers and employees in accordance with law.

(am § 1 ch 6 SLA 1975; am § 1 ch 63 SLA 1976)

**Effect of amendments.** — The 1975 amendment, effective February 17, 1975, added subsection (e).

The 1976 amendment added the second sentence of subsection (b).

As the rest of the section was not affected by the amendments, it is not set out.

## Article 3. City Council.

### Section

#### 200. Composition, eligibility, election and term

Presented by: Committee of The Whole  
Introduced: 07-20-78  
Referred to:  
Public Hearing: 08-03-78

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU ALASKA

Serial No. 78-25

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE  
REAPPORTIONMENT OF ASSEMBLY SEATS AND DETERMINING  
THE ELECTION OF CANDIDATES IN MULTI-MEMBER DISTRICTS

Section 1. This ordinance is of a general and permanent nature and shall become a part of the city and borough code.

Section 2. City and Borough of Juneau Title 11 is amended by adding a new chapter 30 reading as follows:

CHAPTER 11.30  
ASSEMBLY REAPPORTIONMENT

Section 010. Definitions. (a) "Adequate census" shall be the decennial census of the United States or such other similar, comprehensive census or data as may be performed or collected more frequently by the United States, the state or the municipality which has been determined by the assembly by motion to indicate that there is a representational disparity between assembly districts of greater than 15% and to be an adequate basis for establishing appropriate districts. Except for the United States decennial census, census data must be less than 2 years old when presented to the assembly or when filed with the clerk if filed as a part of a petition under section 30.

(b) "Commission" shall be the commission appointed by the assembly or the court as provided in this chapter for the purpose of reapportioning the assembly.

(c) "Date of the determination of an adequate census" and similar terms mean the day upon which the assembly determines that a report of population distribution within the city and borough and/or other data or materials constitute an adequate census as defined in section 10 of this chapter or is the date of its receipt at a regular or special meeting of the findings, conclusions and order of the court under section 30 (c) of this chapter.

(d) "Employee of the municipality" includes all persons whose salary is paid out of appropriations made by the assembly.

Section 020. Voluntary Census Determination. The assembly may, on its own motion or the request of any resident or local organization, consider whether a designated report of

population distribution and/or other data constitutes an adequate census as defined in section 10 of this chapter.

Section 030. Census Determination Upon Petition. (a) Upon the receipt of a valid petition signed by municipal voters equal to 25% of those who voted in the last regular municipal election requesting the assembly determine certain population and/or other data to be a census as defined in section 10 of this chapter, the assembly shall, within 30 days of receipt of the petition hold a public hearing on the question and at the same or a later meeting determine whether the material accompanying the petition and any other material presented at the hearing or any combination of materials before the assembly constitutes an adequate census as defined in section 10 of this chapter.

(b) If within 60 days of the receipt of a valid petition, the assembly has not made a final determination of whether the materials before it constitute an adequate census as defined in section 10 of this chapter or if the assembly has determined that such materials do not constitute an adequate census, one or more persons who signed the petition may appeal to the Superior Court the assembly's negative determination or its failure or refusal to decide. The question on appeal shall be whether the population report and other materials filed with the petition, and offered at the hearing if a hearing was held, constitute an adequate census as defined in section 10 of this chapter.

(c) If the court finds in favor of the appellants, it shall enter its findings of fact and conclusions of law and shall order reapportionment to proceed under the ordinance as if the assembly itself had determined the relevant materials constitute an adequate census as defined in section 10 of this chapter.

(d) No petition shall be valid unless it contains sufficient signatures which conform to the requirements for signatures for city and borough initiative and referendum petitions. The petition shall be filed with the clerk and shall be accompanied by all materials and data which the petitioners believe constitute an adequate census. The data and materials need not accompany the petitions while being circulated for signatures. Signatures must be gathered within 6 months of the date of filing. No petition shall be valid if filed with the clerk within 4 years of an election at which a reapportionment was implemented. Each page of the petition shall contain a petition request reading substantially as follows: "The undersigned qualified municipal voters petition the Assembly of the City and Borough of Juneau to determine that the materials and data filed with this petition show a representational disparity between assembly districts of greater than 15% and that the materials and data are also an adequate basis for establishing appropriate districts and otherwise meet the requirements of an adequate census as

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defined in City and Borough of Juneau Ordinance CBJ 11.30 and that the assembly proceed with reapportionment."

Section 040. Assembly Reapportionment. The assembly shall cause to be introduced an ordinance reapportioning the assembly in accordance with the standards provided in this chapter within 90 days of the date of determination of an adequate census.

Section 050. Appointment of Reapportionment Commission by Assembly. The assembly shall appoint a reapportionment commission immediately upon:

(1) The failure of the assembly to introduce a reapportionment ordinance within 90 days of its determination of an adequate census, or

(2) the failure of the assembly to adopt a reapportionment ordinance within 120 days after its determination of an adequate census, or

(3) a determination by the assembly that it should be reapportioned by a commission.

Section 060. Appointment of Reapportionment Commission by Court. The Superior Court having jurisdiction over the city and borough of Juneau may appoint a reapportionment commission upon the petition of any resident of the city and borough and upon a showing that:

(1) the assembly has failed or refused, for any reason, to introduce a reapportionment ordinance within 90 days of the determination of an adequate census or to adopt a reapportionment ordinance within 120 days of such determination, or

(2) the effect of an adopted reapportionment ordinance has been suspended or defeated by rescission, reconsideration or other act of the assembly during the 30 day period between the adoption of the ordinance and the date upon which it becomes effective and such suspension or defeat has continued more than 180 days after the determination of an adequate census.

Section 070. Reapportionment Commission Composition, Functions and Duties. (a) The reapportionment commission appointed by the assembly or by the court under this chapter shall consist of three persons who are qualified municipal voters, none of whom may be an employee of the municipality or a member of the assembly or any municipal commission, committee or board created by ordinance, charter or statute. The commission shall meet within 30 days of the appointment of the third member and shall elect from its membership a chairman, vice-chairman, and secretary and shall adopt rules of procedure to govern the conduct of its meetings.

(b) The manager or his designee shall provide all support needed for the commission in the execution of its duties. Costs incurred by the commission shall be borne by the municipality. All purchases of goods and services in support of commission activities shall be accomplished by the manager or his designee in accordance with applicable ordinances. The assembly, by resolution, may provide for the payment of an honorarium, per diem, or compensation to members of the commission.

(c) The commission shall, within 90 days of its first meeting, adopt and transmit to the assembly, a resolution for the reapportionment of the assembly. The resolution shall be accompanied by a comprehensive report by the commission supporting its plan, which summarizes the public testimony before the commission, and which addresses the factors considered by the commission in reaching its decision. The commission shall hold at least one public hearing to receive public suggestions for reapportionment schemes prior to its proposing a plan and shall hold at least one public hearing for the purpose of receiving public comment on the reapportionment plan proposed by the commission. The first public hearing on the proposed reapportionment plan shall be held not less than two weeks nor more than four weeks after the publication by the commission of its proposed reapportionment plan and notice of the hearing. After the first public hearing on the proposed reapportionment plan, the commission may, by resolution, adopt its proposed plan with or without modification.

(d) Unless extended by the assembly by motion, the term of the commission shall expire 15 days after receipt by the assembly of both the reapportionment resolution and report adopted by the commission.

Section 080. Status of Commission Reapportionment Plan. (a) The reapportionment plan adopted by resolution by the commission shall be deemed to be an assembly-instituted plan, whether the commission is appointed by the assembly or the court.

(b) The assembly may change a commission adopted plan only by ordinance.

Section 090. Effective Date of Reapportionment. (a) A reapportionment by ordinance shall become effective on the day the ordinance takes effect.

(b) A reapportionment by commission shall become effective upon the date the commission delivers its reapportionment resolution and report to the assembly at a regular or special assembly meeting.

(c) If a reapportionment plan must be reviewed and approved by an agency of the State of Alaska or the United States before such reapportionment may take effect, the assembly shall cause the reapportionment ordinance or resolution and supporting data to be submitted to the appropriate agency immediately upon assembly adoption or receipt. Notwithstanding paragraphs (a) and (b) of this section, a reapportionment subject to state or federal review shall not take effect until the day of the meeting at which the assembly receives notice of agency approval or the day the assembly determines the agency no longer has authority to disapprove the reapportionment or it is otherwise deemed by agency inaction to be approved.

(d) A reapportionment which has become effective shall be implemented at the next regular municipal election at which assemblymen are elected which occurs 90 or more days after the reapportionment becomes effective and which is not less than the fifth regular election following the last election at which a reapportionment was implemented.

Section 100. Reapportionment Standards, Methods and Goals. (a) Reapportionment shall be for assemblyman residency purposes only. Election of assemblymen shall be at large.

(b) The assembly or commission shall give consideration to the following factors when establishing a reapportionment plan:

(1) overall population distribution, which shall be the primary factor and which shall be utilized to insure that the one person one vote standard applicable to such municipal apportionment is met,

(2) available demographic factors which affect voter behavior shall be utilized to insure that the voting strength of racial and political elements of the voting population are not minimized or cancelled out,

(3) the policy expressed by the voters in adopting a charter for the unification of all local governments in 1970,

(4) clarity of boundaries,

(5) the geographic extent of different local government functions and concerns and the extent of common municipal interests to insure that each assembly district is compact, contiguous and contains a population with common municipal interests and concerns; provided, compactness and contiguity need not exist where it is shown that common municipal interests are better served by combining areas which are not compact or are not contiguous,

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(6) boundaries of historically recognized or newly developed communities within the city and borough,

(7) other appropriate factors.

(c) Reapportionment may be accomplished by the creation of new districts, the creation of one or more multi-member districts, the deletion of existing districts, the modification of existing district boundaries, or any combination of the foregoing.

Section 110. Content of Plan. A reapportionment plan, whether by ordinance or commission resolution, shall,

(1) describe the boundaries of each district,

(2) designate the number of seats to which residents of each district are to be elected, and

(3) designate the length of the initial term for each seat in order to minimize and make more uniform the number of seats open for election within the entire city and borough and within multi-member districts at any subsequent election.

Section 120. Effect of Plan on Incumbents. The term of an assemblyman representing a district which will be changed in size or shape or which will lose one or more seats shall end on the date of the election at which the reapportionment plan is implemented. The addition of one or more seats to a district which will not be changed in size or shape shall not affect the term of an incumbent elected from that district.

Section 3. CBJ 29.05.060 is hereby repealed and reenacted to read as follows:

CBJ 29.05.060 Candidate Districts. (a) School board candidates shall run and be elected at large.

(b) Candidates for the office of mayor shall run and be elected at large.


(c) Candidates for the office of assemblyman shall be elected at large but shall be residents of the district from which they run.

(d) In any election of school board members or any election of assembly members involving a multi-member district, the candidates receiving the highest number of votes shall be deemed elected to the vacant seats. If vacancies exist on the school board or within a multi-member assembly district for seats with different terms, the candidate receiving the

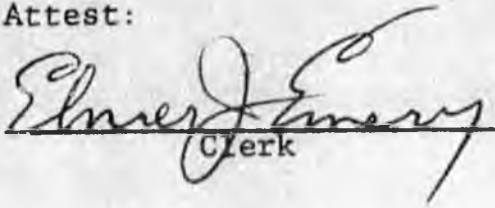
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highest number of votes shall be deemed elected to the seat with the longest term and the candidate who was elected with the fewest number of votes shall be deemed elected to the seat with the shortest term; seats for other terms of different lengths shall be similarly determined in accordance with the number of votes received.

Adopted this 3rd day of August, 1978.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Clerk

Presented by: C.O.W.  
Introduced: 1-4-79  
Referred to:  
Public Hearing:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 79-1

AN ORDINANCE AMENDING CBJ 11.10.030  
TO REAPPORTION THE SEATS ON THE ASSEMBLY

WHEREAS, the assembly, by Ordinance 78-25, has established a procedure for the reapportionment of assembly seats, and

WHEREAS, the assembly has examined the current voter registration records of each precinct within the City and Borough of Juneau, an extrapolation of population from such figures and an estimate of population made from other sources by the Planning Department of the City and Borough of Juneau, and

WHEREAS, the assembly, on December 21, 1978 determined that the data therein constitutes an adequate census as defined in CBJ 11.30.010 and

WHEREAS, the assembly deems it appropriate to reapportion itself by ordinance, and

WHEREAS, the assembly has considered the standards, methods and goals of reapportionment as set forth in CBJ 11.30.100 and finds that the standards will be best met and an appropriate balance of the goals expressed therein will be achieved by retaining the existing election district boundaries and moving one seat from District No. 1 to District No. 3,

NOW THEREFORE BE IT ENACTED by the assembly of the City and Borough of Juneau, Alaska:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the city and borough code.

Section 2. Amendment of Section. CBJ 11.10.030(b) is amended to read as follows:

(b) Other assemblymen shall be elected at large by the qualified voters of the municipality and shall each be residents of individual districts as follows:

(1) Three assemblymen shall be residents of District No. 1;

(2) One assemblyman shall be a resident of District No. 2;

(3) Four assemblymen shall be residents of District No. 3;

Section 3. Amendment of Section. CBJ 11.10.030(c) is amended to read as follows:

(c) the term of office of the Mayor and other assemblymen shall be three years and shall begin immediately following the certification of the election at which they were elected; provided, at the election at which the reapportionment set forth in Ordinance Serial No. 79-1 is implemented, in District No. 1, one seat shall be for an initial term of one year, one seat shall be for an initial term of two years and one seat shall be for an initial term of three years; the new seat in District No. 3 shall be for an initial term of three years.

Section 4. Addition of New Section. There is adopted a new section CBJ 11.10. 030(d) reading as follows:

(d) The boundaries of the election districts shall be as follows:

(1) District No. 1 consists of the former City of Juneau including West Juneau.

(2) District No. 2 consists of all of Douglas Island which is not a part of District No. 1.

(3) District No. 3 consists of the remaining area within the boundaries of the City and Borough of Juneau.

Section 5. Renumbering of Existing Section.  
Existing section CB.I 11.30.030(d) is renumbered as (e).

Adopted this 18th day of January, 1979.

D. D. Asintra  
Mayor

Attest:

Elmer J. Emery  
Clerk

BILL NO. HB 384 re Composition Apportionment of Borough Assembly

Received from \_\_\_\_\_  
Referred to Judiciary

Original Sponsor \_\_\_\_\_  
Fiscal Note \_\_\_\_\_

LAA Legal Research Contact Chenoweth

CONTACTS:

- ✓ Benson
- ✓ Malone
- ✓ Parker
- ✓ C+RA
- ✓ Municipal League