

HB

698

COMMITTEE REPORT

(7)

HOUSE

2/11/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had HB 698

"An Act relating to the composition and representation requirements of general law boroughs; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Margaret ...

John ...

CHAIRMAN



Alaska State Legislature

House of Representatives

Committee on

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Community & Regional Affairs

BILL NUMBER AND TITLE:

HB 698 Composition and Apportionment

ORIGINAL SPONSOR: Branson

of Assemblies

OTHER SPONSORS: _____

RECEIVED FROM: _____

FURTHER REFERRALS: _____

HEARING DATE: 4/11/80

MEMBERS PRESENT: Bill Parker X
Margaret Branson X
Pat O'Connell

Pat Carney X
Charlie Parr X
Fred Zharoff
Ray Metcalfe X

Branson - Discusses concept of the proposed bill as an amendment to correct dual majority problem created by floor amendment when bill was passed during the last session.

Chitwood - Presents alternative proposal developed by the Municipal League. Says AML proposal is an attempt to simplify the law yet solve some of the problems.

Branson - Doesn't support the League's suggested bill and approach. Maintains that once every 10 years isn't too often to ask the voters if they want to retain their existing method of representation.

Metcalfe - Expresses concern for the people outside of the cities and says that the dual majority is vital.

Palmer McCarter, Director of Local Assistance, Dept. of C&RA Support HB698. Floor amendment of 1979 jeopardizes local governments ability to develop a plan for representation and to have it adopted. Discusses the difficulty of getting a majority when you have 3 options or plans for 2 different categories of voters (inside and outside cities) to vote on. Strongly urges that the committee support the bill. Attorney General has raised an issue related to the current law in the second option offered the voters -- current law allows that a borough may create districts and have election at large but require the candidates to live within districts of substantially equal population. The use of the term "substantially" may be a problem. A.G. has recommended elimination of that term.

Branson - Legal people have stated that 10% deviation is allowable and Billy Barrier of Legislative Research does not think the existing wording is a problem.

COMMITTEE ACTION: No action.

TAPE # 8 SIDE 1 Footage 921-1280



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

BILL NUMBER AND TITLE: HB 598 Composition/Representation-Boroughs

ORIGINAL SPONSOR: Branson, Malone, O'Connell
RECEIVED FROM: _____

OTHER SPONSORS: _____

FURTHER REFERRALS: --

HEARING DATE: 4/18/80

MEMBERS PRESENT:	Bill Parker	X	Pat Carney	X
	Margaret Branson	X	Charlie Parr	X
	Pat O'Connell		Fred Zharoff	X
			Ray Metcalfe	

The bill was passed out of committee with committee recommendations (see attached). There were no witnesses to testify.

COMMITTEE ACTION: Bill passed out.

TAPE # 9 SIDE 1 Footage 0-91

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

December 21, 1979

To: Elected Officials
Administrators
Attorneys
Board of Directors
Legislative Committee

From: Ginny Chitwood

Re: Borough Assembly Apportionment

Enclosed are copies of the current law on borough assembly apportionment and a draft of proposed revisions. Ron Larson, Legislative Committee Chairman, will preside at a hearing on this subject in Juneau on Friday, January 25 at 9:00 am in the Juneau Municipal Building. The purpose of the meeting is to bring all ideas together and draft a final version for presentation to the AML Board of Directors. Mayor Larson asks that you review the enclosed material. If you cannot attend the meeting, please forward your suggestions to him at the Matanuska-Susitna Borough or to the AML office.

cc: Senator Sturgulewski
Representative Parker
Representative Branson
Jack Chenoweth

Alaska
MUNICIPAL
League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 4, 1980

to: House Community & Regional Affairs Committee

from: Ginny Chitwood

re: assembly composition, apportionment and reapportionment

Attached for your consideration is a draft of a proposed assembly composition, apportionment and reapportionment bill prepared by a special Alaska Municipal League committee. I am preparing a sectional analysis and a comparison between this bill, HB 698, SB 137 - passed last year, and current law that I will distribute prior to Friday's committee meeting.

OFFICE OF THE MUNICIPAL ATTORNEY

KETCHIKAN GATEWAY BOROUGH

AND

CITY OF KETCHIKAN

334 FRONT STREET

P. O. BOX 7300

KETCHIKAN, ALASKA 99901

(907) 225-3111, EX. 327

March 13, 1980

Ms. Marge Gorsuch
Pouch Y
Capital, Room 104
House Community & Regional
Affairs Committee
Juneau, Alaska 99811

Re: H.B. 689 - Composition and Apportionment of General
Law Boroughs

Dear Ms. Gorsuch:

As per your request, attached is a list of the points contained in the Alaska Municipal League proposal for amendment of A.S. §§ 29.23.021 - .025. This summarizes the problems perceived by the boroughs and the Municipal League in the statutes on the subject of borough apportionment and composition which was enacted last year.

Please note, however, that we do agree with Representative Parr's comments at the committee hearing on March 7 that the law in this area could be greatly simplified and that, in effect, A.S. 29.23.023 and A.S. 29.23.025 could be repealed completely. Representative Parr suggested that the only duty of the State was to ensure that equal representation was provided in all borough assemblies, but beyond that (except for any special provisions governing weighted voting or institutional representation) the boroughs (like cities) should be permitted to determine their own local apportionment and composition. In support of that position, a bill was drafted to be presented to the House Community and Regional Affairs Committee by the Municipal League.

I would strongly recommend that this latter alternative be considered favorably by the committee as a simple and concise way to clear up the problems raised in the attached memo.

Thank you.

Sincerely,

Richard M. Treiser

Richard M. Treiser
Assistant Municipal Attorney

cc: Ginny Chitwood,
Alaska Municipal League

Enclosure

OFFICE OF THE MUNICIPAL ATTORNEY

KETCHIKAN GATEWAY BOROUGH

AND

CITY OF KETCHIKAN

334 FRONT STREET

P. O. BOX 7300

KETCHIKAN, ALASKA 99901

(907) 225-3111, EX. 7

TO: HOUSE COMMITTEE ON COMMUNITY AND REGIONAL
AFFAIRS

FROM: *RM* RICHARD M. TREISER, ASSISTANT MUNICIPAL ATTORNEY
KETCHIKAN GATEWAY BOROUGH, FOR ALASKA MUNICIPAL
LEAGUE

DATE: MARCH 13, 1980

RE: APPORTIONMENT AND COMPOSITION OF GENERAL LAW
BOROUGHES

The following is a summary of problems and recommendations for changes in the provisions of A.S. 29.28.021 - .025. References are made to the statutes enacted last year, effective January 1, 1981.

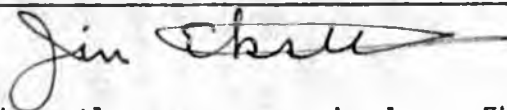
1. Provide that review and change in form of representation/ composition be by ordinance (ratified by the voters) at the option of the Assembly or as necessary to accomplish reapportionment, not mandatory every ten years. (See A.S. 29.23.023(a)).
2. Provide a forth alternative to forms of representation to permit a combination of the other forms and clarify that multiple member districts are permissible. (See A.S. 29.23.023(a)).
3. Provide a specific and sufficient time schedule (90 days after ordinance adopted) to hold an election to approve a change of form of representation. (See A.S. 29.23.023(b)).
- x 4. Provide that only one form of representation be selected by the assembly and presented for ratification, not all four alternatives. (See A.S. 29.23.023(b)).
- r 5. Provide that a simple majority, not a dual majority is required for ratification of a form of representation. (See A.S. 29.23.023(b)).

6. Provide a specific time period (4 months) for the Assembly to seek approval of a different form if the first is rejected. (See A.S. 29.23.023(c)).
7. Provide that the Department of Community and Regional Affairs shall determine the form upon failure to gain ratification, but then only if a change in representation is necessary and not if the existing form may lawfully be retained.
8. Clarify that any districts called for will be determined after a form is approved at election and provide a specific and sufficient time to prepare the same (2 months for at-large forms, 6 months for districts).
9. Provide a specific and sufficient amount of time to effectuate the new form of representation (the next regular election held not sooner than 60 days after adoption of the implementing ordinance).
10. Clarify that institutional representation is prohibited, but that Council members are not ineligible to be elected to the Assembly and vice-versa. (See A.S. 29.23.023(c)).
11. Clarify that any general law borough which changes its form of representation while reapportioning must do so according to the election and other procedures and time limits provided in A.S. § 29.23.023. (See A.S. 29.25.025(b)).
12. Provide for a moratorium (of 2 years) on citizen's reapportionment petitions after the Assembly has reviewed its apportionment and found it proper or has corrected it. (See A.S. 29.23.025(d)). This does not prevent reapportionment by the Assembly at its own initiative or by court order or law during this period.
13. Provide that reapportionment shall not be subject to election or approval by the voters except inasmuch as it involves a change in form of representation. (See A.S. 29.23.025(d)).
14. Provide specific and sufficient time limits: 1) for preparing a new apportionments plan (6 months for districting plans), 2) for the Department of Community and Regional Affairs to do so upon failure of the Borough, and 3) for the Borough to effectuate that plan (at the next regular election not sooner than 60 days after adoption. (See A.S. 29.23.025(e) and (g)).
15. Permission for weighted voting, which is otherwise lawful. (See A.S. 29.23.021(c)).

from Matanuska-Susitna
Borough - 3-7-80

TESTIMONY OF JAMES EKSTEDT ON HOUSE BILL 698 BEFORE

THE HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS, MARCH 7, 1980



Ladies and gentlemen my name is James Ekstedt and I am a member of the Assembly of the Matanuska-Susitna Borough and represent the Palmer area before the Borough Assembly. I have been a member of the Borough Assembly for three years and also am serving as a member of the City Council for the City of Palmer. I am also a member of the Board of Directors of the Alaska Municipal League. I have been asked to appear before this Committee today on behalf of the Assembly of the Matanuska-Susitna Borough and the citizens of the Matanuska-Susitna Borough whose form of government and assembly apportionment will be affected by State Statutes during the coming year.

I wish to first address House Bill 698, offered by Representatives Branson, Malone and O'Connell. As I understand the bill, it would replace a subsection in Alaska Statutes 29.23.023 which presently requires that proposals concerning modification of the form of representation be submitted to the voters and that votes be tabulated in separate classifications for first and home rule cities of the borough and on the other hand for the remaining area of the borough. House Bill 698 would eliminate the need to classify votes cast on proposed forms of representation and would instead provide that a plurality of the votes on the question would decide the issue. While I am in general agreement with the change proposed by House Bill 698, I believe that that bill does not go far enough in addressing some of the major problems which our Borough Assembly and the Alaska Municipal League see in the present reapportionment statutes which were

enacted into law last year. I believe that your Committee should seriously consider additional amendments to Alaska Statutes 29.23 which would correct many of the deficiencies our Assembly sees in those reapportionment statutes. I understand that Mrs. Ginny Chitwood, the Executive Director of the Alaska Municipal League has furnished this Committee with a copy of a bill drafted by the Assistant Municipal Attorney for the Ketchikan Gateway Borough which bill has both the support of the Alaska Municipal League and the Assembly of the Matanuska-Susitna Borough.

We believe that enactment of the bill prepared by the Alaska Municipal League would correct many of the deficiencies that presently exist in statutes governing selection of the form of representation and reapportionment. I would like to address some of those problems that exist in present law and indicate how the bill proposed by the Alaska Municipal League would effectively deal with and resolve those problems.

1. Present law (found at AS 29.23.021(C)) categorically prohibits weighted voting on borough assemblies even though weighted voting schemes can be implemented in order to make the one man one vote principal work. On the other hand the bill proposed by the Alaska Municipal League would allow weighted or fractional voting so long as the basis for doing so is not contrary to the one man one vote principal of the Federal and State Constitutions. In other words, the bill proposed by the Municipal League would allow general law boroughs such as the Kenai Peninsula Borough who have serious problems of distance and communication between various population centers to continue to use the fractional or weighted vote if the fractional or weighted vote complies with the one man one vote principal.

While I do not believe that the Assembly of the Matanuska-Susitna Borough wishes to use the fractional or weighted vote, I believe that other municipalities in the state should be allowed that option if the fractional weighted vote can be used to assist them in implementing the one man one vote principal.

2. The present law found at AS 29.23.023 absolutely requires that all boroughs submit a ballot proposition to their voters no later than January 31, 1981 and every ten years thereafter asking voters to select from among certain alternate forms of representation of their assemblies. This requirement is mandatory; and borough assemblies have no choice but submit the question of form of representation to their voters even though neither the assemblies nor the electorate wish to even face that question. On the other hand the bill proposed by the Alaska Municipal League merely allows boroughs to modify their form of representation from time to time if the question is submitted to the voters for their approval. If the assembly is satisfied with its form of representation, it would not be required to endure the expense, delay and confusion of submitting the question of its own form of representation to the voters. We believe that the Legislature should not be in the business of mandating to local governments that, contrary to the wishes of many local governments including the Matanuska-Susitna Borough they submit the question of its form of representation to the voters on a periodic basis. We do believe that if the assembly chooses to alter its form of representation then that question should be submitted to the voters for their approval.

3. The wording of the present statutes governing submission of the form of representation to the voters appears to require that the voters select from three alternate propositions: First, that assembly members be elected at large; second, that assembly members be elected at large but be required to live within certain election districts; and third, that assembly members be elected by and from election districts established by the borough. We believe that such a ballot would be cumbersome, expensive and confusing. On the other hand the bill proposed by the Municipal League would allow the assemblies to select a new form of representation and submit only that form of representation to the voters. Obviously, if the voters rejected that form of representation the assembly could continue with its existing form or alternatively submit yet another form to the voters. We believe that this alternate method of submitting the question to the voters is much less confusing and would probably result in more reasoned decisions by the electorate on this important question.

4. The present law preserves the requirement that votes cast on the form of representation be tabulated in dual categories, one or first class and home rule cities and the other for all other areas of the borough. The bill prepared by the Alaska Municipal League abolishes the classification system and would allow a change in the form of representation if that change were approved by a majority of votes cast on that question. To the extent that House Bill 698 abolishes the dual classification system, our Assembly is in accordance with the change proposed in that bill.

Present law requires that borough assemblies determine whether they are malapportioned if they receive a petition signed by 50 voters which "contains evidence" that the existing apportionment scheme does not meet constitutional standards. We believe that the standard contained in present law for determination of reapportionment is far too low and would require assemblies to suspend their business and evaluate those petitions even though many do not contain sufficient evidence to persuade the assembly that in fact the body is malapportioned. On the other hand the bill proposed by the Alaska Municipal League requires assemblies to consider reapportionment petitions only if the petition has "reliable and accurate data" showing that the assembly is malapportioned and if that data is sufficient to serve as a basis for reapportionment. Certainly our Assembly does not want to impose undue burdens on citizens who honestly believe that our body is malapportioned but our Assembly also feels that we should not be required to engage in the time consuming and expensive process of determining whether we are in fact malapportioned unless a petition contains accurate data which effectively demonstrates the need for consideration of our apportionment and can assist us in resolving any inequities in our present districting.

5. The present statutes have no provisions whatsoever limiting the number of reapportionment petitions which can be submitted to the borough assembly. In other words, the assembly is legally obligated to consider virtually frivolous reapportionment petitions ad seriatim even though similar petitions have been previously rejected. On the other hand the bill proposed by the Alaska Municipal League proposes a two year moratorium on consideration of reapportionment petitions if the assembly

hears such a petition and decides that it is apportioned fairly within the one man one vote principal of the constitution. We believe that such a moratorium is an important change that should be made to existing law to eliminate presentation of frivolous or repetitive reapportionment petitions to our borough assembly.

The present statutes provide only that changes in assembly apportionment shall be effective on the first regular election after approval of a reapportionment ordinance. This section does not in any way tell us how the new assembly is to be elected, how to deal with existing terms, and how to determine the length of terms of new members. On the other hand the bill proposed by the Alaska Municipal League addresses transition between existing and future apportionment plans and would require an election for all assembly seats within 60 days after reapportionment of the assembly. After that election, borough assembly members would draw straws for the length of their respective terms and would establish staggered terms of office. While there may be alternate methods of handling transition between present and future apportionment, we believe that the method contained in the bill proposed by the Alaska Municipal League satisfactorily addresses that question and should be adopted by your Committee.

6. Current law also requires that the reapportionment plan adopted by the assembly be submitted to the voters for approval. Our Assembly believes that location of boundaries of assembly districts is ultimately a technical or legal question which should not be submitted to the voters. Clearly the assembly is required by the Constitution of the

State of Alaska and that of the United States to devise a reapportionment plan which is consistent with the one man one vote principal. Once that decision has been properly made, we believe the voters should not be required to decide whether they agree with the precise boundaries selected by the borough assembly provided that such boundaries preserve the one man one vote principal. The bill proposed by the Alaska Municipal League eliminates the requirement that redistricting plans be submitted to the voters for their approval, and thereby eliminates the need to have voters decide technical or legal questions beyond their expertise or capabilities.

In summary, our Assembly finds that many problems exist with the present statutes governing reapportionment. While we are in agreement with Representatives Branson, Malone and O'Connell that the dual classification system for counting votes on representation questions should be ended, we believe that House Bill 698 does not go far enough in addressing the problems our Assembly finds in those existing statutes. I would therefore, on behalf of the Assembly and citizens of the Matanuska-Susitna Borough urge this Committee to adopt the recommendations made by the Alaska Municipal League for modification of the reapportionment statutes. I would be happy to answer any questions this Committee may have.

I. REQUEST
 Bill/Resolution No. HB 698 boroughs
 Title An Act relating to the composition and representation requirements of general law
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Community & Regional Affairs
 Program Category Affected Community Development
 BRU, Program, or Subprogram(s) Affected Local Government Assistance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact

IV. DATE _____ PREPARED BY McKie Campbell *MCK*
 AGENCY Community & Regional Affairs
 PHONE 465-4735
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Assembly Composition, Apportionment and Reapportionment

AML Draft - sectional analysis

Section 1

Repeals AS 29.23.021, 29.23.023, and 29.23.025 on assembly composition and apportionment, composition and representation requirements for general law boroughs, and assembly recombination and reapportionment. These three sections were enacted into law during 1979 and become effective January 1, 1981.

Section 2

Sec.29.23.021. Assembly composition and apportionment.

- (a) consistent with U.S. Constitution
- (b) assembly of newly incorporated borough as set out in incorporation petition; existing assembly consistent with this chapter.
- (c) weighted vote allowed.

Sec.29.23.023. Composition and representation of general law borough.

- (a) assembly by ordinance may change to:
 - 1.-elected at large
 - 2.-elected at large, reside in district
 - 3.-elected by and from districts
 - 4.-combination of above
- (b) ordinance ratified by voters and not subject to referendum
- (c) if voters turn down ordinance, assembly may propose another form of representation; if no form ratified within 4 months of the first election, Dept. of C&RA selects form.
- (d) if at large, assembly has 60 days to adopt implementing ordinance; with other forms, assembly has six months to implement; if not done, Dept. of C&RA has six months to implement.
- (e) ordinance applicable at next election held not sooner than 60 days after apportionment becomes effective;
- (f) assembly by ordinance may change the number of assembly members.
- (g) no institutional representation.

Sec.29.23.025. Assembly reapportionment.

- (a) not later than 7/31/81 and thereafter within four months after decennial census, assembly by resolution determines if malapportioned.
- (b) at times other than decennial census assembly by resolution may determine if malapportioned when presented by a petition of borough voters or upon its own initiative.
- (c) 2 year reapportionment moratorium after change in apportionment.
- (d) if malapportioned, assembly shall devise new apportionment according to standards of AS 29.23.021 and may change form of representation or composition.
- (e) ^{changes called for in (d) must be} according to procedures in AS.29.23.023 for ^{changes} general law boroughs.
- (f) six month time limit to reapportion; if not then Dept of C&RA does it.
- (g) effective at the next election held not sooner than 60 days.

Assembly Composition, Apportionment, and Reapportionment

SB 137 - effective 1/1/81

Repeals existing AS 29.23.020.

AS.29.23.021. Assembly Composition, and Apportionment.

- (a) consistent with US Constitution
- (b) assembly of newly incorporated borough composed and apportioned as set out in incorporation petition and may be changed by ordinance; assembly of existing borough as set out in 29.23.023.
- (c) no weighted voting.

AS.29.23.023. Composition and Representation Requirements for General Law Boroughs.

- (a) by 7/31/81 and thereafter within four months of a decennial census report, election on alternate forms of representation:
 - 1.-elected at large
 - 2.-elected at large, reside in district
 - 3.-elected by and from districts.
- (b) two tabulations of votes - inside cities and outside. (no provision for what happens with different pluralities.)
- (c) no institutional representation

AS.29.23.025. Assembly recomposition and reapportionment.

- (a) by 7/31/81 and thereafter within four months of a decennial census report, assembly by resolution determines if malapportioned.
- (b) if malapportioned assembly by ordinance shall reapportion within three months and may change composition.
- (c) assembly by ordinance may reapportion or change composition on the basis of other reliable population data or by petition of more than 50 voters.
- (d) ordinances in (b) and (c) must be ratified by voters.
- (e) establishes four month time limit for (b) and if ordinance not approved then Dept. of C&RA reapportions.
- (f) provides for judicial review.
- (g) effective date - next regular election.

AS.29.18.050(4). assembly of ^{new} general law boroughs may not exceed 11 members.

HB 698.

AS 29.23.023(b) repeals the dual tabulation and replaces it with assembly by ordinance providing for form of representation which conforms to election results cf (a)

3/6/80

Assembly Composition, Apportionment, & Reapportionment

existing law until 1/1/81

AS.29.23.020

(a) number of assembly members, apportionment, and voting procedures determined by incorporation petition, charter, or ordinance; must be consistent with US Constitution.

(b) reapportionment - within six months after decennial census

1.-assembly by resolution determines is malapportioned;

2.-if malapportioned, assembly by ordinance provides for reapportionment;

3.-ordinance must be ratified by voters.

(c) tabulation of vote - two classifications: inside first class and home rule cities and outside; if voters don't approve plan, Dept. of CGRA provides for reapportionment.

(d) may reapportion following same procedures between decennial census reports if petitioned by voters or on assembly initiative.

(e) effective next regular election

(f) provides for judicial review.

repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979.

Sec. 29.23.021. Assembly composition and apportionment [Effective January 1, 1981]. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with AS 29.23.023 and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting. (§ 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment

of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Statute superseded home-rule enactments. — See Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974), decided under former AS 29.23.020.

Sec. 29.23.023. Composition and representation requirements for general law boroughs [Effective January 1, 1981]. (a) The borough assembly shall provide for its composition and for the form of its representation. Not later than July 31, 1981, and thereafter within four months after the report of a federal decennial census, the assembly shall propose and submit to the voters at a regular election or special election called for the purpose, alternative forms of representation by which members are

- (1) elected at large by all qualified voters of the borough;
- (2) elected at large by all qualified voters of the borough, but required to live within an election district or zone established by the borough for election of assembly members, with each district or zone being of substantially equal population; or
- (3) elected by and from election districts or zones established by the borough for the election of borough assembly members.

(b) The proposals set out in (a) of this section shall be submitted to the voters. The vote on the proposals submitted to the voters shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities in the borough.

Malone
Charter or ordinance
be approved by
voters
Meaning of
"qualified voters"
How do I get
review of the
Plan to assure
that it conforms
to equal rights
requirements -
Dept. of Law Review
Upon petition
by people
Plan as directly
to C.A.R.A. for
review? C.A.R.A.
HB 301
State Affairs

providing for its composition and the form of representation which conforms to the form of representation receiving a plurality of the votes in each classification at that election.

(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. (§ 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city

council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Sec. 29.23.025. Assembly recomposition and reapportionment [Effective January 1, 1981]. (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.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within four months of a determination by the assembly that the current apportionment does not meet the standards of AS 29.23.021 — 29.23.025, the assembly shall adopt an ordinance providing for

shorter?

reapportionment has not been approved, the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.021 — 29.23.023.

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

(g) A change in assembly apportionment or composition under this section is effective beginning with the first regular election for members of the assembly which follows approval of a reapportionment ordinance. (§ 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is

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Statute superseded home-rule enactments. — See Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974), decided under former AS 29.23.020.

The legislature intended that all reapportionment ordinances be submitted to the electorate. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974), decided under former AS 29.23.020.

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. The regular term of office begins on the first Monday following certification of the election. 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; am § 4 ch 83 SLA 1979)

Effect of amendment.

The 1979 amendment, effective June 2, 1979, rewrote the second sentence.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides that the terms of borough assemblymen elected or appointed to dual borough assembly-city

council seats are not effected by the amendment made to AS 29.23.040 by sec. 4, ch. 83, SLA 1979 until reapportionment of the assembly is required or proposed under AS 29.23.020 or under AS 29.23.021 — 29.23.025.

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.

TO: Bill Parker

FROM: Ginny Chitwood

change to AS 29.23.021

add (d) - see next page

eliminate Sec 29.23.023

Sec. 29.23.021. Assembly composition and apportionment [Effective January 1, 1981]. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with AS 29.23.020 and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting. (§ 1 ch 83 SLA 1979)

(d)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment

of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 - 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Statute superseded home-rule enactments. — See Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2213), 528 P.2d 450 (1974), decided under former AS 29.23.020.

~~Sec. 29.23.023. Composition and representation requirements for general law boroughs [Effective January 1, 1981]. (a) The borough assembly shall provide for its composition and for the form of its representation. Not later than July 31, 1981, and thereafter within four months after the report of a federal decennial census, the assembly shall propose and submit to the voters at a regular election or special election called for the purpose, alternative forms of representation by which members are~~

- ~~(1) elected at large by all qualified voters of the borough;~~
- ~~(2) elected at large by all qualified voters of the borough, but required to live within an election district or zone established by the borough for election of assembly members, with each district or zone being of substantially equal population; or~~
- ~~(3) elected by and from election districts or zones established by the borough for the election of borough assembly members.~~

~~(b) The proposals set out in (a) of this section shall be submitted to the voters. The vote on the proposals submitted to the voters shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities in the borough.~~

The other classification shall consist of all votes cast in the remaining area of the borough. The borough assembly shall, within three months of the certification of the results of the election adopt an ordinance providing for its composition and the form of representation which conforms to the form of representation receiving a plurality of the votes in each classification at that election.

(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. (S 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

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Sec. 29.23.025. Assembly recomposition and reapportionment (Effective January 1, 1981). (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.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within ^{six} four months of a determination by the assembly that the current apportionment does not meet the standards of AS 29.23.021 — 29.23.025, the assembly shall adopt an ordinance providing for

include this wording as part (d) in AS 29.23.021

- (a) Eliminate 1st phrase, change "four" to "two", delete reference to 29.23.023
- (b) Eliminate reference to 29.23.023 and add "by ordinance"
- (c) Add "by ordinance" and a provision at the end requiring Dept of C+RA review if requested by petitioners.

(e) change "four" to "six"

(e) cont. change "four" to "six"
and delete reference to 29.23.023.

(s) delete "which follows
approval of a reapportionment
ordinance" + replace with
"held not sooner than sixty (60)
days following approval of
a reapportionment ordinance."

reapportionment, and submit the ordinance to the voters. If, at the end of the ^{four}four-month time period, an ordinance providing for reapportionment has not been approved, the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.021 — ~~29.23.023~~.

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

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

(§ 1 ch 83 SLA 1979) held not sooner than sixty (60) days following approval of a reapportionment ordinance

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

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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.

- (1) class;
- (2) name;
- (3) boundaries;
- (4) ~~Effective until January 1, 1981~~ composition and apportionment of the assembly or council;
- ~~Effective January 1, 1981~~ composition and apportionment of the assembly or council, but the number of members of a borough assembly may not exceed 11;
- (5) for a first class borough, a designation of areawide powers to be exercised;
- (6) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (7) maps, documents, and other information required by the Department of Community and Regional Affairs;
- (8) for first class city incorporation, the signatures and resident address of 50 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (9) for second class city incorporation, the signature and resident address of 25 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (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;
- (11) for a city, a designation of the powers proposed by the petitioners to be exercised;
- (12) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972; am § 2 ch 212 SLA 1976; am § 3 ch 83 SLA 1979)

Effect of amendments.

The 1976 amendment, effective June 21, 1976, substituted "and nonareawide powers to be exercised" for "powers to be exercised and of powers to be exercised in the area outside cities only" at the end of paragraph (6), deleted "to show that the proposed municipality meets the standards for incorporation" from the end of paragraph (7), inserted "or of 15 per cent of the permanent resident voters" in paragraph (8), added the language beginning "whichever is greater" to the

end of paragraph (8), substituted "25 permanent resident voters or of 15 per cent of the permanent resident voters" for "10 permanent resident voters" in paragraph (9), added the language beginning "whichever is greater" to the end of paragraph (9), and added paragraphs (11) and (12).

The 1979 amendment, effective January 1, 1981, added "but the number of members of a borough assembly may not exceed 11" to the end of paragraph (4).

(4) delete provision enacted last year + go back to original

Jan Williams

Election

Fed. requirement

Voting Rights Act -
any 1 / has had test
come under ~~the~~ Act.
Other standard -

Ab. covered -
minority language group
' average intelligence
' less than average

districts included

Abk / Fla. not covered -
Provide assistance at polls.
Anything / effects

not effective until
Any state or fed agency
needing to review done
so 60 days for response

* Court could determine who
pay costs -
Court discretion towards
fines.