

HB

947

(7)

COMMITTEE REPORT

HOUSE

3/7/80

FURTHER:

Date: 7 Dec 80

Mr. Speaker:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had HB 947

"An Act relating to the term of office of borough assemblymen; 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 HB same title
 new title
- and recommends PASS
- 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:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN



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 947 Term of Office of Borough Assemblymen

ORIGINAL SPONSOR: Eliason
RECEIVED FROM: _____

OTHER SPONSORS: _____
FURTHER REFERRALS: _____

HEARING DATE: 4/9/80

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

Jack Chenoweth, Leg. Legal Research.

Explains changes in the Committee Substitute.

Bill circulated among committee members and passed out.

COMMITTEE ACTION: CSHB 947 passed out of Committee.

TAPE # 7 SIDE 2 Footage 1-103



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 947 Term of Office of Borough Assemblymen

ORIGINAL SPONSOR: Eliason
RECEIVED FROM: _____

OTHER SPONSORS: _____
FURTHER REFERRALS: _____

HEARING DATE: 3/24/80

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

Rep. Dick Eliason

This bill is seen as a technical housekeeping measure. In Sitka the Borough assembly meetings are held on Tues. and that is the traditional time for swearing in new members. Refers to letter from Sitka.

Discussion of the 1979 law and the wording of the original law followed.

Palmer McCarter, Director of Local Assistance, Dept. C&RA Supports HB947. Questions however the deletion of lines 16,17, "the current term may not be altered". Discusses the history of the current wording with passed with HB66. There was a presumption that the first Monday of October was the election date. Runoff elections created conflicts. Attorneys chose to amend section. McCarter says the proposed wording in HB947 is preferable.

Branson - Suggests that the bill read that the term of office would begin "immediately" following certification. What would happen though in the case of a runoff election?

O'Connell - Suggest that deleted wording in fact be included as part of (a)

Palmer McCarter - suggests it may be necessary to have a fixed date for the beginning of a term of office.

Suggestion made that legal research clarify some of the questions raised.

COMMITTEE ACTION: No Action

TAPE # 5 SIDE 2 Footage 11' -1644

SCSCSHB 947 - ASSEMBLY APPORTIONMENT & REAPPORTIONMENT

BACKGROUND & SUMMARY

Last session the House attached a complicated assembly apportionment and re-apportionment bill to a Senate passed municipal code cleanup bill and adopted a floor amendment that made the prescribed process virtually impossible to implement. Because it was very late in the session with no time for a free conference committee and because the effective date of the bill wasn't until January 1, 1981, the Senate decided to accept the House version and amend it this session to make the reapportionment procedures workable. Senate CS for CSHB 947 sets out assembly apportionment standards in AS 29.23.021, revises and simplifies the reapportionment procedures in AS 29.23.025, and repeals AS 29.23.023 which contains the most onerous provisions of the bill (SB 137) that passed last year.

* * * * *

PROBLEMS WITH AS 29.23.023, ENACTED LAST YEAR

SCSCSHB 947 repeals AS 29.23.023 which provided:

Special Election on Form of Representation. Required special election following decennial census asking borough residents if they want their assembly members elected at large, elected at large but required to live in a district, or elected by and from districts. Boroughs must go to the expense of a special election whether or not there is any dissatisfaction with the current form of representation, and whether or not the assembly is malapportioned. This provision is not necessary because there already exists in law the initiative procedures which may be used by borough residents to change their form of representation.

Dual Plurality Tabulation. Results of above election must be tabulated both inside and outside cities; the assembly must devise a reapportionment plan which "conforms to the form of representation receiving a plurality of the votes in each classification at that election." Nowhere in the law does it say what happens if the people inside the cities vote one way and the people outside vote another.

Short Time Limit. AS 29.23.023 allows only four months for the assembly to devise a reapportionment plan, adopt an ordinance, and get that ordinance ratified by borough voters. Because of the amount of time needed for legal notices for adoption of ordinances and elections, assemblies would have very little time to come up with a reapportionment plan.

* * * * *

HIGHLIGHTS OF SENATE CS for CSHB 947

Apportionment Standards. AS 29.23.021, as revised by SCSCSHB 947, sets out standards for assembly apportionment:

- 1.-consistent with equal representation standards of US Constitution;
- 2.-apportionment set out in incorporation petition approved by voters;
- 3.-no weighted voting;
- 4.-no institutional representation (city council may not appoint one or more of its members to serve on borough assembly).

Reapportionment Procedure. AS 29.23.025, as revised by SCSCSHB 947, sets out procedures for assembly reapportionment:

- 1.-assembly determine if malapportioned within 2 months of census report;
- 2.-if malapportioned, assembly has 6 months to adopt by ordinance a reapportionment plan that must be ratified by voters;
- 3.-if no plan approved within 6 months, C&RA Commissioner provides reapportionment (similar provision in current law);
- 4.-allows reapportionment at times other than following a census;
- 5.-provides for advisory review by C&RA Commissioner and for judicial review;
- 6.-specifies election at which reapportionment plan goes into effect.

AS 29.23.025 is applicable to boroughs but not to unified municipalities. Another part of SCSCSHB 947 clarifies that unified municipalities must provide for reapportionment in their charters.

Miscellaneous Provisions. SCSCSHB 947 also deletes the requirement that the number of assembly members of new boroughs not exceed 11 and allows boroughs to establish by ordinance or charter the date on which assembly terms begin.

Introduced: 3/7/80
Referred: Community & Regional
Affairs

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2 HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the term of office of borough
7 assemblymen; and providing for an effective date."

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

9 * Section 1. AS 29.23.040 is amended to read:

10 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are
11 selected for three-year terms and until their successors are selected
12 and have qualified, unless different terms not exceeding four years are
13 prescribed by borough charter or ordinance.

14 (b) The regular term of office begins on the first Monday follow-
15 ing certification of the election, unless a different date is prescribed
16 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT ASSEM-
17 BLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

reapportionment, and submit the ordinance to the voters. If, at the end of the 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)

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), 523 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), 523 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.

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Introduced: 3/7/80
Referred: Community & Regional
Affairs

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

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HOUSE BILL NO. 947

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the term of office of borough
assemblymen; and providing for an effective date."

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

* Section 1. AS 29.23.040 is amended to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) 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.

(b) The regular term of office begins on the ^{immediately} first Monday follow-
ing certification of the election, unless a different date is prescribed
by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT ASSEM-
BLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.] ^{172 Leave on}

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

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
070(c).

*Ch. on "mayor" and
how this relates*

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 29, 1980

SUBJECT: Terms of borough assemblymen
(Work Order Number 8250)

TO: Representative Richard I. Eliason

FROM: John B. Chenoweth
Legislative Counsel 

This bill is provided without insertion of a name of a sponsor: I cannot put your name to the bill because of the personal bill deadline rule.

Mr. Hallgren, the City/Borough attorney, will be in touch with you to admit that the request embodied in the first page of his February 25th letter is in error; the law presently provides that which he asks you to accomplish.

The statutory cite at the top of page 2 of his letter, on which the request he makes on page 2 of that letter is based, is incorrect. The provision which poses a problem for him is AS 29.23.040. The bill draft attached addresses his concern with reference to the latter provision.

You may wish to indicate to Mr. Hallgren that the source of the 1979 amendment of AS 29.23.040, that is, the source of the "problem" mentioned in page 2 of the letter, was Senate Bill 137, a bill offered by the Governor. With reference to the 1979 change, the governor's transmittal letter says:

The [amendment of AS 29.23.040] merely specifies when newly-elected assemblymen take office, correcting an obvious oversight. . . . (Emphasis added.)

You may want to advise Mr. Hallgren that his complaint relative to legislative intrusion into the concerns of a home rule municipality ["I wish that your colleagues would someday quit poking the legislative stick in the eye of the home rule municipality and stop creating problems where none existed before."] should as well be addressed to the Department of Community and Regional Affairs, on behalf of the administration, in recognition of its zeal to suggest correction of "obvious oversights" in Title 29.

JBC:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1980

SUBJECT: House Bill 947, relating to the term of office of a borough assemblyman, and proposed CSHB 947, relating to elected officials of a borough.

TO: Representative Bill Parker, Chairman
House Community and Regional Affairs Committee

FROM: John B. Cheroweth
Legislative Counsel

In reviewing this bill preparatory to completing the committee substitute requested, I discovered a drafting error in the original. The question of policy which attends that error deserves the committee's attention.

In the original, I bracketed language relating to the "current term of incumbent assemblymen", believing that the reference was to assemblymen who were serving on the date the provisions of the Municipal Code revision took effect. Under that interpretation, the reference having survived its usefulness, I proposed its deletion.

The reference, I find, is intended to cover assemblymen who are serving at the time a proposed change in term of office is expected to take effect, whenever that proposed change occurs. Accordingly, I have restored the provision, redrafting it for clarity.

If members of the committee are of the opinion that the term of office of an assemblyman should not be "protected" from extension or contraction because of change of charter provision or ordinance relating to term of office, the material should be deleted from the bill.

JBC:ljb

Enclosure

I. REQUEST

Bill/Resolution No. HB 947

Title Term of office of borough assemblymen

Requested by _____

Date _____

II. FISCAL DETAIL

Agency Affected N/A

Program Category Affected N/A

BRU, Program, or Subprogram(s) Affected N/A

(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 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE March 13, 1980

PREPARED BY Mary Foster

AGENCY Community & Regional Affairs

PHONE 465-4734

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Original sponsor: Community and Regional
Affairs Committee

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the term of office of borough
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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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10 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are
11 selected for three-year terms and until their successors are selected
12 and have qualified, unless different terms not exceeding four years are
13 prescribed by borough charter or ordinance. If the term is changed by
14 charter or ordinance, the term of an assemblyman holding office at the
15 time the change takes effect is not affected by that change.

16 (b) The regular term of office begins on the first Monday follow-
17 ing certification of the election, unless a different date is prescribed
18 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT ASSEM-
19 BLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

21 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
22 070(c).

FISCAL NOTE

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)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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 recomposition 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 (a) 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 of (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 C&RA 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.

Alaska
MUNICIPAL
League

TELEPHONES
(907) 588-1325
588-6526

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.

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

SCS CSHB 947 - Assembly Apportionment and Reapportionment

The borough assembly apportionment and reapportionment provisions of SCS CSHB 947 basically go back to what was in Title 29 prior to the complicated amendments that were adopted last session. In addition, this bill contains three improvements to the prior law:

- 1.-deletes the dual majority provision, which required assembly adopted reapportionment ordinances to be ratified by the voters inside and outside cities;
- 2.-clarifies that weighted voting is not permissible; and
- 3.-clarifies that institutional representation is prohibited, per an attorney general's opinion.

FISCAL NOTE

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)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1980

SUBJECT: House Bill 947, relating to the term of office of a borough assemblyman, and proposed CSHB 947, relating to elected officials of a borough.

TO: Representative Bill Parker, Chairman
House Community and Regional Affairs Committee

FROM: John B. Chenoweth
Legislative Counsel

In reviewing this bill preparatory to completing the committee substitute requested, I discovered a drafting error in the original. The question of policy which attends that error deserves the committee's attention.

In the original, I bracketed language relating to the "current term of incumbent assemblymen", believing that the reference was to assemblymen who were serving on the date the provisions of the Municipal Code revision took effect. Under that interpretation, the reference having survived its usefulness, I proposed its deletion.

The reference, I find, is intended to cover assemblymen who are serving at the time a proposed change in term of office is expected to take effect, whenever that proposed change occurs. Accordingly, I have restored the provision, redrafting it for clarity.

If members of the committee are of the opinion that the term of office of an assemblyman should not be "protected" from extension or contraction because of change of charter provision or ordinance relating to term of office, the material should be deleted from the bill.

JBC:ljb

Enclosure

HB

947

CONFERENCE COMMITTEE REPORT

DATE: 4 June 50

Mr. President:

Mr. Speaker:

The FREE Conference Committee which has had

CSHB 947 (term of office of borough assemblymen; eff)

&

SCS

CSHB 947 (borough assemblies and amending the apportionment requirements of charters of unified municipalities; eff) under consideration, recommends that

be adopted.

Senate Members:

Senator Sturgulewski, Chairman

Senator Dankworth

Senator Stimson

House Members:

Representative Parker, Chairman

Representative Malone

Representative Malison

RETURN ORIGINAL REPORT & BILL TO THE CHIEF CLERK

FREE CONFERENCE COMMITTEE

CSHB 947 Term of Office of Borough
Assemblymen

SCSCSHB 947 Borough Assemblies and
Amending the Apportionment
Requirements of Charters
of Unified Municipalities



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

June 12, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Mr. Billy Barrier
FROM: Marjorie Gorsuch *mtj*
RE: FCCSHB947

Being aware that you will be involved in the revision of Title 29, as per the requirements of CSSCR66 which directs the Alaska Legislative Council to review the Municipal Government statutes, I want to call your attention to an area of law, enacted by the Eleventh Legislature as FCCSHB947, which you will want to address during the course of your revision. In the haste of the last days of legislative activity, the following omissions went unnoticed when the Free Conference version of the bill was adopted.

Section 9 AS 29.23.025 (e) outlines the procedures to be followed if a reapportionment ordinance has not been approved by the voters after the assembly has determined that reapportionment is necessary. The law does not address what happens to the order--is it voted on by the people? Can the order be appealed? Is administrative or judicial review provided for?

In Section 29.23.029 and Section 29.23.031 there should be additional statutory references providing for judicial review and relief in all applicable instances and referencing all applicable voter approved ordinances and reapportionment orders under Sec. 031.

Both the draftsman, Jack Chenoweth, and Ginny Chitwood of the Municipal League which will be involved in the revision of Title 29 are familiar with the problems in the Free Conference law and would be able to answer any questions.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

FCCS HB 947

Free Conference Committee Meeting 5/31/80]

Present:

Sturgulewski

Stimson

Rep. for Sen. Dankworth

Parker, Chairman

Branson

Rep. For Rep. Malone

Discussion of Malone's concern that the C&RA determination would be "advisory" in nature. His concern is that the voters only recourse would be to the courts and that there should be an option.

The bill is to redrafted with modification.

Informal review -

FCCSHB947 - Reviewed by House members on 6/2.
Approval given.

Senate committee members concur.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

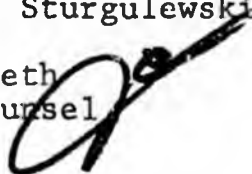
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 3, 1980

SUBJECT: FCCS HB 947

TO: Representative Bill Parker
Senator Arliss Sturgulewski

FROM: John B. Chenoweth
Legislative Counsel 

*Sec. 1 AS 29.13.100(3) - *Sec. 4 AS 29.23.021(d)

No changes in the text of the sections

AS 29.23.023:

FCCS *Sec. 5
SCS [Repealed in Senate CS]

The Senate CS repealed AS 29.23.023. The FCCS re-enacts the provision to maintain the requirement that, following each decennial census, borough officials permit the residents to vote on form of representative and assembly composition, and that any proposed change in form of representative and composition which involves use of districts requires the assembly to specify the proposed districts on the election ballot. As offered in the FCCS, the provisions of AS 29.23.023 describe the forms of representation which may be offered for voter consideration and the time period in which the election must be called. The section exempts home rule and unified municipalities from being subject to its provisions.

AS 29.23.025(a)

FCCS *Sec. 6
SCS *Sec. 5

Replaces Senate CS language with provisions which tie apportionment provisions to changes in composition and form of representation.

AS 29.23.0025(b)

FCCS *Sec. 7
SCS *Sec. 6

The FCCS version borrows from existing AS 29.-23.025(c) by specifically authorizing the borough assembly to charge its apportionment when the existing standards of AS 29.23.021 (one-man/one-vote; no institutional representation; no weighted voting) no longer apply.

AS 29.23.025(c)

FCCS *Sec. 8
SCS *Sec. 7

The FCCS confines this section to voter-initiated petitions asking for change in apportionment.

AS 29.23.025(e)

FCCS *Sec. 9
SCS *Sec. 8

Substantially the same in both versions -- describes time limits for apportionment when required.

Apportionment Appeals

FCCS *Sec. 10 -- AS 29.23.027
SCS *Sec. 9

Authorizes appeals of apportionment ordinances which are alleged to be not in compliance with standards of AS 29.23.021 to the commissioner of community and regional affairs. The FCCS version describes the procedures to be followed under the appeal.

Representative Bill Parker
Senator Arliss Sturgulewski
Page 3
June 3, 1980

Judicial Review

FCCS *Sec. 10 -- AS 29.23.029
SCS *Sec. 12 (h) and (i)

Substantially the same

Effective Date of New Apportionments

FCCS *Sec. 10 -- AS 29.23.031
SCS *Sec. 11 and *Sec. 12 (j)

Substantially the same

Applicability of Apportionment

FCCS *Sec. 10 -- AS 29.23.033
SCS *Sec. 12 (k)

Substantially the same

No changes in remainder of bill --

Because material in existing AS 29.23.025(f) and (g) is
picked up in new AS 29.23.027 and AS 29.23.031, these
are repealed in the FCCS.

JBC:jdn

WO 8250
Chenoweth

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

11 (3) AS 29.23.021 (borough assembly composition and apportion-
12 ment), and AS 29.23.040 - 29.23.050 (borough assembly members)

13 * Sec. 2. AS 29.18.050(4) is amended to read:

14 (4) composition and apportionment of the assembly or council
15 [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

16 * Sec. 3. AS 29.23.021(b) is amended to read:

17 (b) The assembly of a newly incorporated borough is, after incor-
18 poration and until the adoption of an ordinance providing for a change
19 in composition or apportionment, composed of the number of members and
20 apportioned as set out in the incorporation petition approved by the
21 voters. If the borough is already incorporated, the assembly shall be
22 composed and apportioned in a manner that is consistent with the
23 requirements of this section [AS 29.23.023] and prescribed by charter or
24 ordinance.

25 * Sec. 4. AS 29.23.021 is amended by adding a new subsection to read:

26 (d) A member of the assembly of a borough may not be elected or
27 appointed by and from the council of a city in the borough.

28 * Sec. 5. AS 29.23.023 is repealed and re-enacted to read:

29 Sec. 29.23.023. COMPOSITION AND FORM OF REPRESENTATION. (a) The

at the next general election after the report of the decennial census or special election called for the purpose

1 borough assembly shall provide for its composition and for the form of
 2 its representation.

within eight months - PICK ONE -

3 (b) ~~By July 31, 1981,~~ and, thereafter, within two/three/four
 4 months after the report of a federal decennial census, the assembly
 5 shall propose and submit to the voters of the borough, at a regular
 6 election or ^{special election?} special election called for the purpose, one or more forms
 7 of borough assembly representation. The forms of representation which
 8 the assembly may submit to the voters are

9 (1) election of members of the borough assembly at large by
 10 all qualified voters of the borough;

11 (2) election of members of the borough assembly by district,
 12 including but not limited to, ^{PICK ONE} /OR/ limited to the following:

13 (A) election at large by all qualified voters of the
 14 borough, but with a requirement that a candidate live within an
 15 election district established by the borough for election of
 16 assembly members;

17 (B) election by and from election districts established
 18 by the borough for the election of assembly members; or

19 (C) election by and from an election district estab-
 20 lished by the borough for election of assembly members, with a
 21 requirement that a candidate live within a zone or section within
 22 that election district.

23 (c) A form of borough assembly representation which includes
 24 election of borough assembly members by district under (b)(2) of this
 25 section shall be submitted to the voters of the borough with a plan of
 26 apportionment as required by AS 29.23.025(a).

27 (d) The borough assembly shall, within 30 days of certification of
 28 the results of the election held on a proposed form of representation
 29 under this section, adopt an ordinance providing for its composition and

*Proposed by voters
 one district or
 two districts
 all voters
 not large
 or
 district*

*by all qualified
 voters within
 the district*

1 the form of assembly representation, and, if applicable, the apportion-
2 ment of assembly seats which corresponds to the proposed form of rep-
3 resentation which receives the greatest number of votes at the election.

4 (e) This section does not apply

5 (1) to a unified municipality incorporated under AS 29.68.-

6 29.68.440;

7 (2) to a home rule borough if the borough, by charter,

8 provides procedures permitting voters to approve a change in assembly
9 composition and form of representation which are substantially similar
10 to the procedures in this section.

11 * Sec. 6. AS 29.23.025(a) is repealed and re-enacted to read:

12 (a) If the borough assembly proposes and submits to the voters a
13 form of representation which includes election of borough assembly
14 members by district under AS 29.23.023(b)(2), the assembly shall submit
15 with the proposition a proposed plan of apportionment which corresponds
16 to the form of representation proposed. The assembly shall describe the
17 plan of apportionment in the ballot proposition, and may present the
18 plan in any manner which it believes accurately describes the apportion-
19 ment which it is proposing under the form of representation.

20 * Sec. 7. AS 29.23.025(b) is amended to read:

21 (b) If the existing apportionment of the borough assembly does not
22 meet the applicable standards of AS 29.23.021 [AS 29.23.021 -
23 29.23.023], the assembly shall provide by ordinance for its reapportion-
24 ment. At the same time, the borough assembly may, by ordinance, change
25 the composition of the assembly.

26 * Sec. 8. AS 29.23.025(c) is amended to read:

27 (c) In addition to providing for apportionment at the times re-
28 quired under (a) and (b) of this section, the borough assembly shall
29 provide by ordinance for its reapportionment and may provide, by

Under full I included - see AS 240 - 29.68.440; included

without voters approval

omit Reapportionment Reapportionment

add 29.23.025 (a) "five minutes"

five determination

water

1 ordinance, for a change in its composition whenever it determines, on
 2 the basis of federal census reports or other reliable population data,
 3 that the existing apportionment does not meet the standards for ap-
 4 portionment in AS 29.23.021. If a petition signed by not less than 50
 5 registered [BOROUGH] voters who are residents of the borough requests
 6 the borough assembly to determine whether the existing apportionment
 7 meets the standards for apportionment in AS 29.23.021, and the petition
 8 contains evidence that the existing apportionment does not meet those
 9 standards, the assembly may [SHALL] make the determination requested.
 10 The borough assembly shall make a determination required by this sub
 11 section within two months of receipt of a petition which meets the
 12 requirements of this subsection.

13 * Sec. 9. AS 29.23.025(e) is amended to read:

14 (e) Within six [FOUR] months of a determination by the borough
 15 assembly that the current apportionment does not meet the standards of
 16 AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall
 17 adopt an ordinance providing for reapportionment, and submit the ordi-
 18 nance to the voters. If, at the end of the six-month [FOUR-MONTH] time
 19 period, an ordinance providing for reapportionment has not been approved
 20 by the voters, the commissioner of the Department of Community and
 21 Regional Affairs shall provide for the reapportionment in accordance
 22 with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by prepar-
 23 ing an order of reapportionment and delivering the order to the borough
 24 mayor.

25 * Sec. 10. AS 29.23.025(f) is repealed and re-enacted to read:

26 (f) A reapportionment ordinance approved by the voters, or a
 27 decision of the borough assembly that the standards of AS 29.23.021 do
 28 not require a change in apportionment, may be appealed to the commis-
 29 sioner of the Department of Community and Regional Affairs. Fifty

1 registered voters who are residents of the borough may submit a petition
 2 to the commissioner of community and regional affairs requesting the
 3 commissioner to determine whether the proposed reapportionment ordinance
 4 approved by the voters meets the standards of AS 29.23.021, or whether a
 5 decision of the borough assembly that the standards of AS 29.23.021 do
 6 not require a change of apportionment is correct. If the petition asks
 7 the commissioner of community and regional affairs to review an ordi-
 8 nance approved by the voters under (e) of this section, the petition
 9 shall be delivered to the commissioner not later than 20 days after
 10 certification of the election. If the petition asks the commissioner of
 11 community and regional affairs to review a decision of the borough
 12 assembly under (c) of this section, the petition shall be delivered to
 13 the commissioner within 20 days of the decision of the borough assembly.
 14 The commissioner of community and regional affairs shall review the
 15 petition and may make the determination requested. The commissioner
 16 shall provide copies of his determination to the persons petitioning for
 17 appeal and to borough officials not later than 60 days after he receives
 18 the petition. If the commissioner determines that the proposed reap-
 19 portionment ordinance approved by the voters does not meet the standards
 20 of AS 29.23.021, or if he determines that the decision of the borough
 21 assembly that the standards of AS 29.23.021 do not require a change of
 22 apportionment is not correct, the commissioner

23
 24 may, by order, direct the borough assembly to prepare a reapportionment
 25 ordinance which meets the standards of AS 29.23.021 and submit the or-
 26 dinance to the voters under this section.

27 /OR/

28 ↑
 FILE ONE
 ↓
 (NEXT PAGE)

1 shall provide for the reapportionment of the borough assembly in
2 accordance with the standards of AS 29.23.021 by preparing an order of
3 reapportionment and delivering the order to the borough mayor.

4 * Sec. 11. AS 29.23.025(g) is amended to read:

5 (g) A change in assembly apportionment or composition under this
6 section is effective beginning with the first regular election for
7 members of the assembly which is held more than 60 days after the later
8 of:

9 (1) approval of the reapportionment ordinance by the voters
10 under (e) of this section; or

11 (2) the delivery to the mayor of a reapportionment order of
12 the commissioner of community and regional affairs under (e) or (f) of
13 this section [FOLLOWS APPROVAL OF A REAPPORTIONMENT ORDINANCE].

14 * Sec. 12. AS 29.23.025 is amended by adding new subsections to read:

15 (h) The commissioner of community and regional affairs may request
16 the superior court to enforce a reapportionment order granted under (e)
17 or (f) of this section.

18 (i) Each of the following is subject to judicial review:

19 (1) a plan of reapportionment approved by the voters under
20 (a) of this section;

21 (2) a reapportionment ordinance approved by the voters under
22 (e) of this section;

23 (3) a determination by the borough assembly under (c) of this
24 section that the standards of AS 29.23.021 do not require a change in
25 apportionment; and

26 (4) a reapportionment order of the commissioner of community
27 and regional affairs made under (e) or (f) of this section.

28 (j) The provisions of (g) of this section do not apply to a
29 borough in which a change in assembly composition or apportionment is

1 subject to review and approval or determination of nonobjection by the
 2 Attorney General of the United States under the Voting Rights Act of
 3 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly com-
 4 position or apportionment subject to review under the Voting Rights Act
 5 of 1965, as amended, is effective beginning with the first regular
 6 election for members of the assembly which is held more than 60 days
 7 after

8 (1) receipt by the borough assembly of approval by the
 9 Attorney General of the United States of the proposed change in the
 10 composition or apportionment of the assembly;

11 (2) receipt by the borough assembly of a statement of non-
 12 objection from the Attorney General of the United States to the proposed
 13 change in the composition or apportionment of the assembly; or

14 (3) the last day on which the Attorney General of the United
 15 States may review a proposed change in the composition or apportionment
 16 of the assembly.

17 (k) The provisions of this section do not apply

18 (1) to a unified municipality incorporated under AS 29.68.-
 19 240 - 29.68.440;

20 (2) to a home rule borough if the borough, by charter,
 21 provides for reapportionment of the borough assembly.

22 * Sec. 13. AS 29.23.040 is amended to read:

23 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are
 24 selected for three-year terms and until their successors are selected
 25 and have qualified, unless different terms not exceeding four years are
 26 prescribed by borough charter or ordinance. Except when otherwise re-
 27 quired by a change of composition or apportionment, if the term of an
 28 assemblyman is changed by charter or ordinance, the term of an assembly
 29 man holding office at the time the change takes effect is not affected

1 by that change.

2 (b) The regular term of office begins on the first Monday follow-
3 ing certification of the election, unless a different date is prescribed
4 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT AS-
5 SEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

7 * Sec. 14. AS 29.68.350(a)(2) is repealed and re-enacted to read:

8 (2) provisions for

9 (A) the establishment of service areas; and

10 (B) the establishment of districts or sections for the
11 election of members of the legislative body of the unified munici-
12 pality, if election of members of the legislative body is not
13 areawide, and procedures by which to reapportion the election
14 districts or sections;

15 * Sec. 15. Sections 1 - 12, and 14 of this Act take effect January 1,
16 1981.

17 * Sec. 16. Sections 13, 15, and 16 of this Act take effect immediately in
18 accordance with AS 01.10.070(c).

19 *Composition - Numbers*

20 *Apportionment*
21 *Allocation among different constituencies*

22 *Form of Rep. - at large or by district*
23
24
25
26
27
28
29

6/2/80

Borsuch

*This problem resolved
with "combination"
Already in present
law that route be
done*

There is some confusion as to whether this is to be "temporary" or "permanent" law, so

As "temporary" law, applicable only to exempt only pre-1980 census apportionments:

* Sec. 15. EXEMPTION FROM REQUIREMENTS. (a) If a borough assembly has been reapportioned after December 31, 1979, the borough assembly is not required to submit to the voters of the borough one or more proposed forms of representation as required by AS 28.23.023(b).

(b) The provisions of (a) of this section do not apply to a borough assembly which was reapportioned after December 31, 1979, from providing for another reapportionment under AS 29.23.025(b) or (c) if evidence is presented under AS 29.23.025(b) or (c) that the reapportionment, as completed, does not meet the standards of AS 29.23.021, as amended by secs. 3 and 4 of this Act.

which has been approved by the voters

Eliminate

As "permanent" law applicable to provide exemptions for reapportionments which are done preceding any federal census:

Redraft AS 29.23.023(e), page 3, by adding a new paragraph to read:

(3) to the assembly of a general law borough which has been reapportioned under AS 29.23.025 during the 18 months preceding ~~the~~ a federal census report.

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

11 (3) AS 29.23.021 (borough assembly composition and apportion-
12 ment), and AS 29.23.040 - 29.23.050 (borough assembly members)

13 * Sec. 2. AS 29.18.050(4) is amended to read:

14 (4) composition and apportionment of the assembly or council
15 [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

16 * Sec. 3. AS 29.23.021(b) is amended to read:

17 (b) The assembly of a newly incorporated borough is, after incor-
18 poration and until the adoption of an ordinance providing for a change
19 in composition or apportionment, composed of the number of members and
20 apportioned as set out in the incorporation petition approved by the
21 voters. If the borough is already incorporated, the assembly shall be
22 composed and apportioned in a manner that is consistent with the require-
23 ments of this section [AS 29.23.023] and prescribed by charter or ordi-
24 nance.

25 * Sec. 4. AS 29.23.021 is amended by adding a new subsection to read:

26 (d) A member of the assembly of a borough may not be elected or
27 appointed by and from the council of a city in the borough.

28 * Sec. 5 AS 29.23.023 is repealed and re-enacted to read:

29 Sec. 29.23.023. COMPOSITION AND FORM OF REPRESENTATION. (a) The

Ch. m

1 borough assembly shall provide for its composition and for the form of
2 its representation.

3 (b) Not later than the first regular election which occurs after
4 the report of a federal decennial census, the assembly shall propose and
5 submit to the voters of the borough, at that regular election or at a
6 special election called for the purpose; one or more forms of borough
7 assembly representation. The forms of representation which the assembly
8 may submit to the voters are:

9 (1) election of members of the borough assembly at large by
10 the qualified voters throughout the borough;

11 (2) election of members of the borough assembly by district,
12 *including but not limited to*, *Pick one* /OR/ limited to the following:

13 (A) election at large by the qualified voters throughout
14 the borough, but with a requirement that a candidate live within an
15 election district established by the borough for election of
16 assembly members;

17 (B) election from election districts established by the
18 borough for the election of assembly members by the qualified
19 voters of a district; or

20 (C) election within an election district established by
21 the borough for election of assembly members by the qualified
22 voters of the district, with a requirement that a candidate live
23 within a zone or section within that election district.

24 (c) A form of borough assembly representation which includes
25 election of borough assembly members by district under (b)(2) of this
26 section shall be submitted to the voters of the borough with a plan of
27 apportionment as required by AS 29.23.025(a).

28 (d) The borough assembly shall, within 30 days of certification of
29 the results of the election held on a proposed form of representation

Combinations

OMIT

1 under this section, adopt an ordinance providing for its composition and
2 the form of assembly representation, and, if applicable, the apportion-
3 ment of assembly seats which corresponds to the proposed form of rep-
4 resentation which receives the most votes at the election.

5 (e) This section does not apply

6 (1) to a unified municipality incorporated under AS 29.68.-
7 240 - 29.68.440;

8 (2) to a home rule borough if the borough, by charter, pro-
9 vides procedures ^{permitting voters to change} for changing assembly composition and form of represen-
10 tation.

11 * Sec. 6. AS 29.23.025(a) is repealed and re-enacted to read:

12 (a) If the borough assembly submits to the voters a form of
13 representation which includes election of borough assembly members by
14 district under AS 29.23.023(b)(2), the assembly shall submit with the
15 proposition a proposed plan of apportionment which corresponds to the
16 form of representation proposed. The assembly shall describe the plan
17 of apportionment in the ballot proposition, and may present the plan in
18 any manner which it believes accurately describes the apportionment
19 which is proposed under the form of representation.

20 * Sec. 7. AS 29.23.025(b) is amended to read:

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

26 * Sec. 8. AS 29.23.025(c) is amended to read:

27 (c) In addition to providing for apportionment at the times re-
28 quired under (a) and (b) of this section, the borough assembly shall
29 provide by ordinance for its reapportionment and may provide, by ordi-

1 nance, for a change in its composition whenever it determines, on the
2 basis of federal census reports or other reliable population data, that
3 the existing apportionment does not meet the standards for apportionment
4 in AS 29.23.021. If a petition signed by not less than 50 registered
5 [BOROUGH] voters who are residents of the borough requests the borough
6 assembly to determine whether the existing apportionment meets the
7 standards for apportionment in AS 29.23.021, and the petition contains
8 evidence that the existing apportionment does not meet those standards,
9 the assembly may [SHALL] make the determination requested. The borough
10 assembly shall make a determination required by this subsection within
11 two months of receipt of a petition which meets the requirements of this
12 subsection.

13 * Sec. 9. AS 29.23.025(e) is amended to read:

14 (e) Within six [FOUR] months of a determination by the borough
15 assembly that the current apportionment does not meet the standards of
16 AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall
17 adopt an ordinance providing for reapportionment, and submit the ordi-
18 nance to the voters. If, at the end of the six-month [FOUR-MONTH] time
19 period, an ordinance providing for reapportionment has not been approved
20 by the voters, the commissioner of the Department of Community and
21 Regional Affairs shall provide for the reapportionment in accordance
22 with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by prepar-
23 ing an order of reapportionment and delivering the order to the borough
24 mayor.

25 * Sec. 10. AS 29.23.025(f) is repealed and re-enacted to read:

26 (f) A reapportionment ordinance approved by the voters, or a
27 decision of the borough assembly that the standards of AS 29.23.021 do
28 not require a change in apportionment, may be appealed to the commis-
29 sioner of the Department of Community and Regional Affairs. Fifty

1 registered voters who are residents of the borough may submit a petition
2 to the commissioner of community and regional affairs requesting the
3 commissioner to determine whether the proposed reapportionment ordinance
4 approved by the voters meets the standards of AS 29.23.021, or whether a
5 decision of the borough assembly that the standards of AS 29.23.021 do
6 not require a change of apportionment is correct. If the petition asks
7 the commissioner of community and regional affairs to review an ordi-
8 nance approved by the voters under (e) of this section, the petition
9 shall be delivered to the commissioner not later than 20 days after
10 certification of the election. If the petition asks the commissioner of
11 community and regional affairs to review a decision of the borough
12 assembly under (c) of this section, the petition shall be delivered to
13 the commissioner within 20 days of the decision of the borough assembly.
14 The commissioner of community and regional affairs shall review the
15 petition and may make the determination requested. The commissioner
16 shall provide copies of his determination to the persons petitioning for
17 appeal and to borough officials not later than 60 days after he receives
18 the petition. If the commissioner determines that the proposed reap-
19 portionment ordinance approved by the voters does not meet the standards
20 of AS 29.23.021, or if he determines that the decision of the borough
21 assembly that the standards of AS 29.23.021 do not require a change of
22 apportionment is not correct, the commissioner
23
24 may, by order, direct the borough assembly to prepare a reapportionment
25 ordinance which meets the standards of AS 29.23.021 and submit the or-
26 dinance to the voters under this section.

27 OK ↑
28 Malone

/OR/

↑ Pick
one
↓ (Next Page)

1 shall provide for the reapportionment of the borough assembly in
2 accordance with the standards of AS 29.23.021 by preparing an order of
3 reapportionment and delivering the order to the borough mayor.

4 * Sec. 11. AS 29.23.025(g) is amended to read:

5 (g) A change in assembly apportionment or composition under this
6 section is effective beginning with the first regular election for
7 members of the assembly which is held more than 60 days after the later
8 of:

9 (1) approval of the reapportionment ordinance by the voters
10 under (e) of this section; or

11 (2) the delivery to the mayor of a reapportionment order of
12 the commissioner of community and regional affairs under (e) or (f) of
13 this section [FOLLOWS APPROVAL OF A REAPPORTIONMENT ORDINANCE].

14 * Sec. 12. AS 29.23.025 is amended by adding new subsections to read:

15 (h) The commissioner of community and regional affairs may request
16 the superior court to enforce a reapportionment order issued under (e)
17 or (f) of this section.

18 (i) Each of the following is subject to judicial review:

19 (1) a plan of reapportionment approved by the voters under
20 (a) of this section;

21 (2) a reapportionment ordinance approved by the voters under
22 (e) of this section;

23 (3) a determination by the borough assembly under (c) of this
24 section that the standards of AS 29.23.021 do not require a change in
25 apportionment; and

26 (4) a reapportionment order of the commissioner of community
27 and regional affairs made under (e) or (f) of this section.

28 (j) The provisions of (g) of this section do not apply to a
29 borough in which a change in assembly composition or apportionment is

1 subject to review and approval or determination of nonobjection by the
2 Attorney General of the United States under the Voting Rights Act of
3 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly com-
4 position or apportionment subject to review under the Voting Rights Act
5 of 1965, as amended, is effective beginning with the first regular
6 election for members of the assembly which is held more than 60 days
7 after

8 (1) receipt by the borough assembly of approval by the
9 Attorney General of the United States of the proposed change in the
10 composition or apportionment of the assembly;

11 (2) receipt by the borough assembly of a statement of non-
12 objection from the Attorney General of the United States to the proposed
13 change in the composition or apportionment of the assembly; or

14 (3) the last day on which the Attorney General of the United
15 States may review a proposed change in the composition or apportionment
16 of the assembly.

17 (k) The provisions of this section do not apply

18 (1) to a unified municipality incorporated under AS 29.68.-
19 240 - 29.68.440;

20 (2) to a home rule borough if the borough, by charter,
21 provides for reapportionment of the borough assembly.

22 * Sec. 13. AS 29.23.040 is amended to read:

23 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are
24 selected for three-year terms and until their successors are selected
25 and have qualified, unless different terms not exceeding four years are
26 prescribed by borough charter or ordinance. Except when otherwise re-
27 quired by a change of composition or apportionment, if the term of an
28 assemblyman is changed by charter or ordinance, the term of an assembly
29 man holding office at the time the change takes effect is not affected

1 by that change.

2 (b) The regular term of office begins on the first Monday follow-
3 ing certification of the election, unless a different date is prescribed
4 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT AS-
5 SEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

7 * Sec. 14. AS 29.68.350(a)(2) is repealed and re-enacted to read:

8 (2) provisions for

9 (A) the establishment of service areas; and

10 (B) the establishment of districts or sections for the
11 election of members of the legislative body of the unified municipi-
12 pality, if election of members of the legislative body is not
13 areawide, and procedures by which to reapportion the election
14 districts or sections;

15 * Sec. 15. Sections 1 - 12, and 14 of this Act take effect January 1,
16 1981.

17 * Sec. 16. Sections 13, 15, and 16 of this Act take effect immediately in
18 accordance with AS 01.10.070(c).

19 ↓ ? ? 1020 Repealed
20 * Check effective date
21
22
23
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29

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

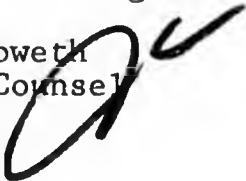
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 3, 1980

SUBJECT: FCCS HB 947

TO: Representative Bill Parker
Senator Arliss Sturgulewski

FROM: John B. Chenoweth
Legislative Counsel 

*Sec. 1 AS 29.13.100(3) - *Sec. 4 AS 29.23.021(d)

No changes in the text of the sections

AS 29.23.023:

FCCS *Sec. 5
SCS [Repealed in Senate CS]

The Senate CS repealed AS 29.23.023. The FCCS re-enacts the provision to maintain the requirement that, following each decennial census, borough officials permit the residents to vote on form of representative and assembly composition, and that any proposed change in form of representative and composition which involves use of districts requires the assembly to specify the proposed districts on the election ballot. As offered in the FCCS, the provisions of AS 29.23.023 describe the forms of representation which may be offered for voter consideration and the time period in which the election must be called. The section exempts home rule and unified municipalities from being subject to its provisions.

AS 29.23.025(a)

FCCS *Sec. 6
SCS *Sec. 5

Replaces Senate CS language with provisions which tie apportionment provisions to changes in composition and form of representation.

AS 29.23.0025(b)

FCCS *Sec. 7
SCS *Sec. 6

The FCCS version borrows from existing AS 29.-23.025(c) by specifically authorizing the borough assembly to change its apportionment when the existing standards of AS 29.23.021 (one-man/one-vote; no institutional representation; no weighted voting) no longer apply.

AS 29.23.025(c)

FCCS *Sec. 8
SCS *Sec. 7

The FCCS confines this section to voter-initiated petitions asking for change in apportionment.

AS 29.23.025(e)

FCCS *Sec. 9
SCS *Sec. 8

Substantially the same in both versions -- describes time limits for apportionment when required.

Apportionment Appeals

FCCS *Sec. 10 -- AS 29.23.027
SCS *Sec. 9

Authorizes appeals of apportionment ordinances which are alleged to be not in compliance with standards of AS 29.23.021 to the commissioner of community and regional affairs. The FCCS version describes the procedures to be followed under the appeal.

Representative Bill Parker
Senator Arliss Sturgulewski
Page 3
June 3, 1980

Judicial Review

FCCS *Sec. 10 -- AS 29.23.029
SCS *Sec. 12 (h) and (i)

Substantially the same

Effective Date of New Apportionments

FCCS *Sec. 10 -- AS 29.23.031
SCS *Sec. 11 and *Sec. 12 (j)

Substantially the same

Applicability of Apportionment

FCCS *Sec. 10 -- AS 29.23.033
SCS *Sec. 12 (k)

Substantially the same

No changes in remainder of bill --

Because material in existing AS 29.23.025(f) and (g) is
picked up in new AS 29.23.027 and AS 29.23.031, these
are repealed in the FCCS.

JBC:jdn

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

11 (3) AS 29.23.021 (borough assembly composition and apportion-
12 ment), and AS 29.23.040 - 29.23.050 (borough assembly members)

13 * Sec. 2. AS 29.18.050(4) is amended to read:

14 (4) composition and apportionment of the assembly or council
15 [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

16 * Sec. 3. AS 29.23.021(b) is amended to read:

17 (b) The assembly of a newly incorporated borough is, after incor-
18 poration and until the adoption of an ordinance providing for a change
19 in composition or apportionment, composed of the number of members and
20 apportioned as set out in the incorporation petition approved by the
21 voters. If the borough is already incorporated, the assembly shall be
22 composed and apportioned in a manner that is consistent with the require-
23 ments of this section [AS 29.23.023] and prescribed by charter or ordi-
24 nance.

25 * Sec. 4. AS 29.23.021 is amended by adding a new subsection to read:

26 (d) A member of the assembly of a borough may not be elected or
27 appointed by and from the council of a city in the borough.

28 * Sec. 5. AS 29.23.023 is repealed and re-enacted to read:

29 Sec. 29.23.023. COMPOSITION AND FORM OF REPRESENTATION. (a) The

1 borough assembly shall provide for its composition and for the form of
2 its representation.

3 (b) Not later than the first regular election which occurs after
4 the report of a federal decennial census, the assembly shall propose and
5 submit to the voters of the borough, at that regular election or at a
6 special election called for the purpose, one or more forms of borough
7 assembly representation. The forms of representation which the assembly
8 may submit to the voters are:

9 (1) election of members of the borough assembly at large by
10 the qualified voters throughout the borough;

11 (2) election of members of the borough assembly by district,
12 including

13 (A) election at large by the qualified voters throughout
14 the borough, but with a requirement that a candidate live within an
15 election district established by the borough for election of
16 assembly members; or

17 (B) election from election districts established by the
18 borough for the election of assembly members by the qualified
19 voters of a district;

20 (3) election of members of the borough assembly both at large
21 and by district.

22 (c) A form of borough assembly representation which includes
23 election of borough assembly members under (b)(2) or (b)(3) of this
24 section shall be submitted to the voters of the borough with a plan of
25 apportionment as required by AS 29.23.025(a).

26 (d) The borough assembly shall, within 30 days of certification of
27 the results of the election held on a proposed form of representation
28 under this section, adopt an ordinance providing for its composition and
29 the form of assembly representation, and, if applicable, the apportion-

1 ment of assembly seats which corresponds to the proposed form of rep-
2 resentation which receives the most votes at the election.

3 (e) This section does not apply

4 (1) to a unified municipality incorporated under AS 29.68.-
5 240 - 29.68.440;

6 (2) to a home rule borough if the borough charter contains
7 procedures for changing assembly composition and form of representation.

8 * Sec. 5. AS 29.23.025(a) is repealed and re-enacted to read:

9 (a) Not later than two months after the official report of a
10 federal decennial census, the borough assembly shall determine and
11 declare by resolution whether the existing apportionment of the borough
12 assembly meets the standards of AS 29.23.021. If the borough assembly
13 submits to the voters a form of representation which includes election
14 of borough assembly members under AS 29.23.023(b)(2) or (b)(3), the
15 assembly shall submit with the proposition a proposed plan of apportion-
16 ment which corresponds to the form of representation proposed. The
17 assembly shall describe the plan of apportionment in the ballot proposi-
18 tion, and may present the plan in any manner which it believes accurate-
19 ly describes the apportionment which is proposed under the form of
20 representation. If the borough assembly determines that its existing
21 apportionment meets the standards of AS 29.23.021, the assembly may
22 include the existing apportionment as a proposed plan of apportionment
23 of assembly seats which corresponds to a form of representation which is
24 proposed.

25 * Sec. 7. AS 29.23.025(b) is repealed and re-enacted to read:

26 (b) The borough assembly shall provide, by ordinance, for a change
27 in an existing apportionment of the borough assembly whenever it
28 determines that the apportionment does not meet the standards of
29 AS 29.23.021. At the same time, the borough assembly may, by ordinance,

1 change the composition of the assembly.

2 * Sec. 8. AS 29.23.025(c) is repealed and re-enacted to read:

3 (c) If a petition signed by not less than 50 registered voters who
4 are residents of the borough requests the borough assembly to determine
5 whether the existing apportionment meets the standards for apportionment
6 in AS 29.23.021, and the petition contains evidence that the existing
7 apportionment does not meet those standards, the assembly may make the
8 determination requested. The borough assembly shall make a determina-
9 tion required by this subsection within two months of receipt of a
10 petition which meets the requirements of this subsection.

11 * Sec. 9. AS 29.23.025(e) is amended to read:

12 (e) Within six [FOUR] months of a determination by the borough
13 assembly under (b) or (c) of this section that the current apportionment
14 does not meet the standards of AS 29.23.021 [AS 29.23.021 - 29.23.025],
15 the borough assembly shall adopt an ordinance providing for reapportion-
16 ment, and submit the ordinance to the voters. If, at the end of the
17 six-month [FOUR-MONTH] time period, an ordinance providing for reap-
18 portionment has not been approved by the voters, the commissioner of the
19 Department of Community and Regional Affairs shall provide for the
20 reapportionment in accordance with the standards of AS 29.23.021
21 [AS 29.23.021 - 29.23.023] by preparing an order of reapportionment and
22 delivering the order to the borough mayor.

23 * Sec. 10. AS 29.23 is amended by adding new sections to read:

24 Sec. 29.23.027. APPORTIONMENT APPEALS. (a) A reapportionment
25 ordinance approved by the voters, or a decision of the borough assembly
26 that the standards of AS 29.23.021 do not require a change in apportion-
27 ment, may be appealed to the commissioner of the Department of Community
28 and Regional Affairs. Fifty registered voters who are residents of the
29 borough may submit a petition to the commissioner of community and

1 regional affairs requesting the commissioner to determine whether the
2 proposed reapportionment ordinance approved by the voters meets the
3 standards of AS 29.23.021, or whether a decision of the borough assembly
4 that the standards of AS 29.23.021 do not require a change of apportion-
5 ment is correct. If the petition asks the commissioner of community and
6 regional affairs to review an ordinance approved by the voters under
7 AS 29.23.025(e), the petition shall be delivered to the commissioner not
8 later than 20 days after certification of the election. If the petition
9 asks the commissioner of community and regional affairs to review a
10 decision of the borough assembly under AS 29.23.025(c), the petition
11 shall be delivered to the commissioner within 20 days of the decision of
12 the borough assembly.

13 (b) The commissioner of community and regional affairs shall
14 review the petition and may make the determination requested. The
15 commissioner shall provide copies of his determination to the persons
16 petitioning for appeal and to borough officials not later than 60 days
17 after he receives the petition.

18 (c) If the commissioner of community and regional affairs deter-
19 mines that the proposed reapportionment ordinance approved by the voters
20 does not meet the standards of AS 29.23.021, or if he determines that
21 the decision of the borough assembly that the standards of AS 29.23.021
22 do not require a change of apportionment is not correct, the commissioner
23 shall, by order, direct the borough assembly to prepare a reapportion-
24 ment ordinance which meets the standards of AS 29.23.021 and submit the
25 ordinance to the voters.

26 (d) When the borough assembly has been directed by the commis-
27 sioner of community and regional affairs to prepare a reapportionment
28 ordinance under (c) of this section, the borough assembly shall, within
29 two months of its receipt of the commissioner's order, adopt an ordi-

1 nance providing for reapportionment. The borough assembly shall submit
2 an ordinance adopted under this subsection to the voters at a regular
3 election or special election held within 60 days of the date of adoption
4 of the reapportionment ordinance.

5 (e) If at the end of the time period provided under (d) of this
6 section an ordinance providing for reapportionment has not been approved
7 by the voters, the commissioner of community and regional affairs shall
8 provide for the reapportionment of the borough assembly in accordance
9 with the standards of AS 29.23.021 by preparing an order of reapportion-
10 ment and delivering the order to the borough mayor.

11 Sec. 29.23.029. JUDICIAL REVIEW AND RELIEF. (a) The commissioner
12 of community and regional affairs may request the superior court to
13 enforce a reapportionment order issued under AS 29.23.027(e).

14 (b) Each of the following is subject to judicial review:

15 (1) a plan of reapportionment approved by the voters under
16 AS 29.23.025(a);

17 (2) a determination by the borough assembly under AS 29.23.-
18 025(c) that the standards of AS 29.23.021 do not require a change in
19 apportionment;

20 (3) a reapportionment ordinance approved by the voters under
21 AS 29.23.025(d);

22 (4) a reapportionment order of the commissioner of community
23 and regional affairs made under AS 29.23.027(c);

24 (5) a reapportionment ordinance approved by the voters under
25 AS 29.23.027(d); and

26 (6) a reapportionment order of the commissioner of community
27 and regional affairs made under AS 29.23.027(e).

28 Sec. 29.23.031. EFFECTIVE DATE OF APPORTIONMENT. (a) A change in
29 assembly apportionment or composition under AS 29.23.025 or 29.23.027 is

1 effective beginning with the first regular election for members of the
2 assembly which is held more than 60 days after the later of:

3 (1) approval of a reapportionment ordinance by the voters
4 under AS 29.23.025(a), 29.23.025(e), or 29.23.027(d); or

5 (2) the delivery to the mayor of a reapportionment order of
6 the commissioner of community and regional affairs under AS 29.23.027(e).

7 (b) The provisions of (a) of this section do not apply to a
8 borough in which a change in assembly composition or apportionment is
9 subject to review and approval or determination of nonobjection by the
10 Attorney General of the United States under the Voting Rights Act of
11 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly com-
12 position or apportionment subject to review under the Voting Rights Act
13 of 1965, as amended, is effective beginning with the first regular
14 election for members of the assembly which is held more than 60 days
15 after

16 (1) receipt by the borough assembly of approval by the
17 Attorney General of the United States of the proposed change in the
18 composition or apportionment of the assembly;

19 (2) receipt by the borough assembly of a statement of non-
20 objection from the Attorney General of the United States to the proposed
21 change in the composition or apportionment of the assembly; or

22 (3) the last day on which the Attorney General of the United
23 States may review a proposed change in the composition or apportionment
24 of the assembly.

25 Sec. 29.23.033. APPLICABILITY OF APPORTIONMENT PROVISIONS. The
26 provisions of AS 29.23.025 - 29.23.031 do not apply

27 (1) to a unified municipality incorporated under AS 29.68.-
28 240 - 29.68.440;

29 (2) to a home rule borough if the borough, by charter,

1 provides for reapportionment of the borough assembly.

2 * Sec. 11. AS 29.23.040 is amended to read:

3 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are
4 selected for three-year terms and until their successors are selected
5 and have qualified, unless different terms not exceeding four years are
6 prescribed by borough charter or ordinance. Except when otherwise re-
7 quired by a change of composition or apportionment, if the term of an
8 assemblyman is changed by charter or ordinance, the term of an assembly
9 man holding office at the time the change takes effect is not affected
10 by that change.

11 (b) The regular term of office begins on the first Monday follow-
12 ing certification of the election, unless a different date is prescribed
13 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT AS-
14 SEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

16 * Sec. 12. AS 29.68.350(a)(2) is repealed and re-enacted to read:

17 (2) provisions for

18 (A) the establishment of service areas; and

19 (B) the establishment of districts or sections for the
20 election of members of the legislative body of the unified munici-
21 pality, if election of members of the legislative body is not
22 areawide, and procedures by which to reapportion the election
23 districts or sections;

24 * Sec. 13. AS 29.23.025(f) and (g) are repealed.

25 * Sec. 14. Sections 1 - 10, 12, and 13 of this Act take effect January 1,
26 1981.

27 * Sec. 15. Sections 11, 14, and 15 of this Act take effect immediately in
28 accordance with AS 01.10.070(c).



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Jack Chenoweth
FROM: Rep. Bill Parker
DATE: 6/2/80
RE: FCCSHB947

ADD:
p.3 line 21

Within two 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. If....

p. 3 line 9

"provides procedures permitting voters to change composition.."

*020. Repealed
as of last session*

Jack -

*Applicable p. 3 (line 20?)
What time deadline applies in (b) p.3*

*p. 4 (e) does determination refer to
(c) & (b)?*

*p. 5 What happens if borough can't come
up with a solution?*

*p. 6 - "or special" election required?
60 days fit in?*

p. 6 (h) reapportionment order - can this still apply

*p. 3
(b) also notes
how to appoint?
if so, then
shouldn't p. 6
(1)(2) make
reference*



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Jack Chenoweth
FROM: Rep. Bill Parker
DATE: 6/2/80
RE: FCCSHB947

ADD:

p.3 line 21

Within two 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. If....

p. 3 line 9

"provides procedures permitting voters to change composition.."

contain the signatures of 25 percent of those voting in the last general election. *Sup. Ct. Op. No. 1231 (File No. 2624), 194 P.2d 1024 (1976).*
Area Dispatch, Inc. v. City of Anchorage.

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

(3) [Effective until January 1, 1981] AS 29.23.020 — 29.23.050 (borough assembly representation)

[Effective January 1, 1981] AS 29.23.021; 29.23.025 — 29.23.050 (composition and apportionment of borough assembly; borough assembly recomposition and reapportionment; assembly representation)

(22) AS 29.53.010 — 29.53.400 (borough and city property taxes)

(34) AS 29.33.050, AS 29.41.010(a), AS 14.12.020(a) (responsibility for education on military reservations)

(35) AS 29.58.345 — 29.58.350 (bonded debt for school construction)

(36) AS 29.63.065 (exemption from special assessment)

(37) AS 29.33.090(d) (zoning of state land for homesite entry)

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements)

(39) AS 29.33.150(b) (applicability of local platting regulations to state land in a municipality)

(am § 2 ch 32 SLA 1973; am § 43 ch 53 SLA 1973; am § 2 ch 137 SLA 1975; am § 2 ch 114 SLA 1975; am § 3 ch 218 SLA 1976; am § 4 ch 142 SLA 1977; am § 1 ch 20 SLA 1978; am § 2 ch 81 SLA 1978; am § 2 ch 83 SLA 1979; am § 1 ch 85 SLA 1979)

Effect of amendments.

The first 1973 amendment added paragraph (34).

The second 1973 amendment deleted "city representation and vote on" preceding "borough assembly" and added "representation" to the end of paragraph (3).

The 1974 amendment added paragraph (35).

The 1975 amendment added paragraph (36).

The 1976 amendment substituted "AS 29.58.345" for "AS 29.58.340" at the beginning of paragraph (35).

The 1977 amendment added paragraph (37).

The first 1978 amendment rewrote paragraph (22), which formerly read "AS 29.53.010 — 29.53.350, 29.53.400 (borough and city property tax)."

The second 1978 amendment added paragraph (38).

The first 1979 amendment, effective January 1, 1981, rewrote paragraph (3).

The second 1979 amendment, effective July 1, 1979, added paragraph (39).

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

Legislative committee report — For report on ch. 53, SLA 1973 (CS 110 382), see 1973 House Journal, pp. 793, 885.

Senate CS for HB 947

Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

(3) AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 - 29.23.050 (borough assembly members)

Article 2. Procedures.

Section

- 50. Petition
- 70. Investigation
- 80. Report and hearing
- 90. Decision on municipal incorporation

Section

- 100. [Repealed]
- 110. Incorporation election
- 120. Election of initial officers

* Sec. 2. AS 29.18.050(4) is amended to read:

(4) composition and apportionment of the assembly or council
[. BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

Sec. 29.18.050. Petition. Municipal incorporation is proposed by filing a petition with the Department of Community and Regional Affairs. The petition shall include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) [Effective until January 1, 1981] composition and apportionment of the assembly or council;
- (5) [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;
- (6) for a first class borough, a designation of areawide powers to be exercised;
- (7) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (8) maps, documents, and other information required by the Department of Community and Regional Affairs;
- (9) for first class city incorporation, the signatures and residential 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;
- (10) for second class city incorporation, the signature and residential 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;
- (11) for borough incorporation, the signature and residential 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;
- (12) for a city, a designation of the powers proposed by the petitioner to be exercised;
- (13) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation. (S 2 ch 118 SLA 1972; am S 9 ch 200 SLA 1972; am S 2 ch 212 SLA 1976; am S 3 ch 83 SLA 1979)

to apportionment of the borough assembly or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979, repealed by sec. 21 [24] 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 29.23.010, 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 29.23.010 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.

Amended

* ~~Sec. 3.~~ AS 29.23.021(b) is amended to read:

(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 the requirements of this section [AS 29.23.023] and prescribed by charter or ordinance.

* ~~Sec. 4.~~ AS 29.23.021 is amended by adding a new subsection to read:

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

* Sec. 14. AS 29.23.023 is repealed.

Sec. 5. AS 29.23.025(a) is amended to read:

(a) Within two [NOT LATER THAN JULY 31, 1981, AND THEREAFTER WITHIN FOUR] months after the official report of a federal decennial census, the borough assembly shall determine and declare by resolution if the existing apportionment of the assembly meets the applicable standards of AS 29.23.021 [AS 29.23.021 - 29.23.023].

* Sec. 6. AS 29.23.025(b) is amended to read:

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

* Sec. 7. AS 29.23.025(c) is amended to read:

(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, by ordinance, 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 registered [BOROUGH] voters who are residents of the borough requests the borough 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 may [SHALL] make the determination requested. The borough assembly shall make a determination when required by this subsection within two months of its receipt of a petition which meets the requirements of this subsection.

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. (§ 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

Handwritten note: Hold election under 29.23(a)

Handwritten note: see next page

reapportionment, and submit the ordinance to the voters. If, at the end of the 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. (S 1 ch 83 SLA 1979)

Sec. 8. AS 29.23.025(e) is amended to read:

(e) Within six [FOUR] months of a determination by the borough assembly that the current apportionment does not meet the standards of AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall adopt an ordinance providing for reapportionment, and submit the ordinance to the voters. If, at the end of the six-month [FOUR-MONTH] time period, an ordinance providing for reapportionment has not been approved by the voters, the commissioner of the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by preparing an order of reapportionment and delivering the order to the borough mayor.

Sec. 9. AS 29.23.025(f) is repealed and re-enacted to read:

(f) A reapportionment ordinance approved by the voters, or a determination of the borough assembly that the standards of AS 29.23.021 do not require a change in apportionment, may be appealed to the commissioner of the Department of Community and Regional Affairs. Fifty registered voters who are residents of the borough may submit a petition to the commissioner of community and regional affairs requesting the commissioner to determine whether the proposed reapportionment ordinance

approved by the voters meets the standards of AS 29.23.021, or whether a determination of the borough assembly that the standards of AS 29.23.021 do not require a change of apportionment is correct. If the petition asks the commissioner of community and regional affairs to review an ordinance approved by the voters under (e) of this section, the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner of community and regional affairs to review a determination of the borough assembly under (c) of this section, the petition shall be delivered to the commissioner within 20 days of the determination of the borough assembly. The commissioner of community and regional affairs shall review the petition and may make the determination requested. The commissioner of community and regional affairs shall provide copies of his decision to the persons petitioning for appeal and to borough officials not later than 60 days after he receives the petition.

* Sec. 10. AS 29.23.025(g) is amended to read:

(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 is held more than 60 days after the latest of the following:

(1) approval of the reapportionment ordinance by the voters under (e) of this section;

(2) the delivery to the mayor of the reapportionment order of the commissioner of community and regional affairs under (c) of this section; or

(3) a final determination of the commissioner of community and regional affairs of an appeal under (f) of this section approving a revised [FOLLOWS APPROVAL OF A] reapportionment ordinance.

* Sec. 11. AS 29.23.025 is amended by adding new subsections to read:

(h) Each of the following is subject to judicial review:

(1) a reapportionment order of the commissioner of community and regional affairs made under (e) of this section; and

(2) a decision of the commissioner of community and regional affairs on an appeal made under (f) of this section.

(i) The provisions of this section apply to

(1) a home rule and a general law borough;

(2) a unified municipality incorporated under AS 29.68.240 - 29.68.440 before the effective date of this section, unless

(A) election of members of the assembly of a unified municipality occurs at large; or

(B) the commissioner of community and regional affairs

determines, not later than February 1, 1981, that the charter of the unified municipality contains procedures by which to apportion election districts or sections.

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. 12.~~ AS 29.23.040 is amended to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) 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. Except when otherwise required by a change of apportionment under AS 29.23.025, if the term of an assemblyman is changed by charter or ordinance, the term of an assemblyman holding office at the time the change takes effect is not affected by that change.

(b) The regular term of office begins on the first Monday following certification of the election, unless a different date is prescribed by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT ASSEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

... fees, and other expenses incurred by the charter commission are a debt of the borough and shall be paid upon proper certification. (§ 2 ch 118 SLA 1972)

Sec. 29.68.350. Charter preparation. (a) A charter commission established under this chapter shall prepare, adopt and submit a proposed home rule charter for the area to be unified to the voters for approval or rejection at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in § 380 of this chapter. The charter shall include among its provisions:

(1) provisions for adjustment of existing bonded indebtedness and other obligations in a manner which will reserve a fair and equitable burden of taxation for debt service, subject to § 410 of this chapter;

(2) provision for the establishment of

(A) service areas;

(B) sections, if desired; and

(C) reapportionment of the sections, if established;

(3) provision for nonpartisan government and provision for the selection, organization, authority and responsibilities of the governing body and its executive and administrator;

(4) the transfer or other disposition of property and other rights, claims, assets and franchises of the local government to be unified under the charter;

(5) provision for exercise of the rights of initiative and referendum as required by AS 29.13.050;

(6) a method of amending the charter;

(7) the date on which the charter, if approved at the charter election required by § 390 of this chapter, is effective;

(8) designation of the new municipality's official name, subject to the provisions of (b) of this section;

(9) other charter provisions which the charter commission elects to include and which may be included in a home rule charter under this chapter and the state constitution.

(b) The area to be unified shall be known as a borough or a city or by some other designation consistent with existing law. (§ 2 ch 118 SLA 1972; am § 6 ch 147 SLA 1972)

Effect of amendment. — The 1972 amendment, effective September 10, 1972, deleted the language following "existing law" in subsection (b).

Sec. 29.68.360. Public hearings. Both before and after drafting the proposed charter, the charter commission shall hold a public hearing in each area of the borough represented on the borough assembly. Other public hearings may be held by the charter com-

* Sec. 13. AS 29.68.350(a)(2) is repealed and re-enacted to read:

(2) provisions for

(A) the establishment of service areas; and

(B) the establishment of districts or sections for the election of members of the borough assembly, if election of borough assembly members is not areawide, and procedures by which to reapportion the election districts or sections;

* Sec. 15. Sections 1 - 11, 13, and 14 of this Act take effect January 1, 1981.

* Sec. 16. Sections 12, 15 and 16 of this Act take effect immediately in accordance with AS 01.10.070(c).

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

5/6/80

Sectional Analysis - Senate CS for HB 947

Sec. 1. Makes AS 29.23.021 applicable to home rule municipalities.

Sec. 2. Deletes requirement that the number of members of a borough assembly may not exceed 11.

Sec. 3. Deletes reference to AS 29.23.023, which is repealed by Sec. 14 of this bill.

Sec. 4. Prohibits institutional representation.

Sec. 5. Requires a embly to determine if malapportioned; changes time limit from 4 months to 2 months; deletes reference to AS 29.23.023.

Sec. 6. Deletes reference to AS 29.23.023; requires changes in apportionment or composition to be made by ordinance - AS 29.23.025(d) requires voter approval of apportionment and composition ordinances.

Sec. 7. Clarifies wording and requires borough assembly to make a determination if malapportioned if petitioned by 50 registered voters who are residents of the borough.

Sec. 8. Lengthens time limit from 4 months to 6 months to adopt a reapportionment ordinance and clarifies wording about Dept. of C&RA providing for reapportionment.

Sec. 9. New section which provides review by the C&RA Commissioner if petitioned by 50 registered voters who are residents of the borough.

Sec. 10. Technical change in effective date of reapportionment plans.

Sec. 11. Provides for judicial review; makes section applicable to home rule and general law boroughs and to unified municipalities whose assemblies are not elected at large or whose charter does not contain reapportionment provisions.

Sec. 12. Permits reapportionment to change the regular term of office of an assemblyman; permits charter or ordinance to change when the regular term of office begins.

Sec. 13. Clarifies that charters for unified municipalities must contain provisions for reapportionment procedures.

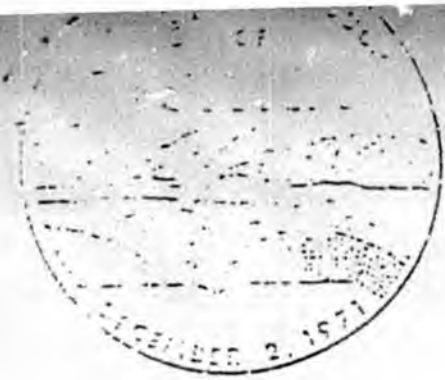
Sec. 14. Repeals AS 29.23.023, which would require special elections or forms of representation, dual-plurality to implement, and extremely tight time limits.

Sec. 15 & 16. Effective date sections.

New Section 5 (re-number remaining sections accordingly)

Sec. 5. AS 29.23.023 (b) is repealed and reenacted to read:

(b) one or more of the proposals set out in ~~section~~ (a) of this section shall be submitted to the voters at the next regular election.



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

February 25, 1980

Representative Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Representative Eliason:

It has recently been brought to our attention by Assembly member, Roberley Potter, that A.S. 29.23.023 was enacted last year. Unless amended, this statute will have many unintended effects on Sitka. Chief among these effects would be to cost the municipality money and to hold both the Assembly and the State Legislature up to ridicule.

29.23.023 (which applies to Home Rule Municipalities) provides that by July 31, 1981, all municipalities must hold an election and present to the voters various local apportionment schemes for Assembly representation.

In Sitka, since unification in 1971, all Assembly members have been elected at large; however, this law would require the City to spend a fair amount of time and money coming up with proposed election districts (containing equal populations) and to have a vote on the whole mess.

It seems obvious to me, at least, that the real purpose of the statute is to force various municipalities around the State which do have election districts to review them and to also give the citizens the right to vote for area-wide representation.

I don't believe that places already having area-wide representation were really intended to be covered by this Statute.

The Statute should be amended to allow for such an exemption or we're all going to have fun explaining why we are going through such an expensive waste of time in Sitka.

Could you please investigate this situation and consider sponsoring legislation to exempt municipalities like Sitka which already provide area-wide Assembly representation?

February 25, 1980

I wish to also point out a further minor problem. A.S. 29.23.180 (c) as amended last year (and applicable to Home Rule Municipalities) has the term of office of new Assembly men begin "... on the first Monday following Certification of the Election."

There are two problems with this in Sitka, First: The former practice in Sitka has been for the election to be certified at the next regular Assembly meeting following the election. Following certification, the new members are sworn in and take their seats. Under this new procedure, we would have to call a Special meeting the Monday following certification merely to swear in new members.

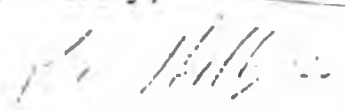
Second: The Mayor (while having no special powers in Sitka) may continue to be sworn into office at the meeting where the election is certified since the Legislative enactments covering the beginning of Mayors' terms are not made applicable to Home Rule Municipalities. That's also going to look real funny to the voters if we swear in a new Mayor at one meeting but have to wait until the next Monday to swear in the rest of the new Assembly members.

I wish that your colleagues would someday quit poking the Legislative stick in the eye of the Home Rule Municipality and stop creating problems where none existed before.

I realize that my comments would have been more helpful if they had been made prior to passage of these Statutes, however, I am sure none of us realized the potential problems at that time.

If I can be of any aid to you, please let me know.

Sincerely,


Peter S. Hallgren
Municipal Attorney

cc: Senator Pete Meland

Alaska MUNICIPAL League

TELEPHONES
907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

Sectional Analysis - Senate CS for HB 947

✓ Sec. 1. Makes AS 29.23.021 applicable to home rule municipalities.

sets up standards for computer & re-apportionment.
✓ Sec. 2. Deletes requirement that the number of members of a borough assembly may not exceed 11. *no limit until next year --*

applies to new boroughs --
✓ Sec. 3. Deletes reference to AS 29.23.023, which is repealed by Sec. 14 of this bill.

✓ Sec. 4. Prohibits institutional representation. *city council*
can't be borough assemblyman.

✓ Sec. 5. Requires assembly to determine if malapportioned; changes time limit from 4 months to 2 months; deletes reference to AS 29.23.023.

✓ Sec. 6. Deletes reference to AS 29.23.023; requires changes in apportionment or composition to be made by ordinance - AS 29.23.025(d) requires voter approval of apportionment and composition ordinances.

✓ Sec. 7. Clarifies wording and requires borough assembly to make a determination if malapportioned if petitioned by 50 registered voters who are residents of the borough.

✓ Sec. 8. Lengthens time limit from 4 months to 6 months to adopt a reapportionment ordinance and clarifies wording about Dept. of C&RA providing for reapportionment.

✓ Sec. 9. New section which provides review by the C&RA Commissioner if petitioned by 50 registered voters who are residents of the borough.

✓ Sec. 10. Technical change in effective date of reapportionment plans.

✓ Sec. 11. Provides for judicial review; makes section applicable to home rule and general law boroughs and to unified municipalities whose assemblies are not elected at large or whose charter does not contain reapportionment provisions. *current law applies to home rule.*

✓ Sec. 12. Permits reapportionment to change the regular term of office of an assemblyman; permits charter or ordinance to change when the regular term of office begins. *large boroughs apply to section - section 12 at large boroughs apply to*

✓ Sec. 13. Clarifies that charters for unified municipalities must contain provisions for reapportionment procedures.

✓ Sec. 14. Repeals AS 29.23.023, which would require special elections on forms of representation, dual-plurality to implement, and extremely tight time limits.

✓ Sec. 15 & 16. Effective date sections.

SCSCSHB 947 - ASSEMBLY APPORTIONMENT & REAPPORTIONMENT

BACKGROUND & SUMMARY

Last session the House attached a complicated assembly apportionment and re-apportionment bill to a Senate passed municipal code cleanup bill and adopted a floor amendment that made the prescribed process virtually impossible to implement. Because it was very late in the session with no time for a free conference committee and because the effective date of the bill wasn't until January 1, 1981, the Senate decided to accept the House version and amend it this session to make the reapportionment procedures workable. Senate CS for CSHB 947 sets out assembly apportionment standards in AS 29.23.021, revises and simplifies the reapportionment procedures in AS 29.23.025, and repeals AS 29.23.023 which contains the most onerous provisions of the bill (SB 137) that passed last year.

* * * * *

PROBLEMS WITH AS 29.23.023, ENACTED LAST YEAR

SCSCSHB 947 repeals AS 29.23.023 which provided:

Special Election on Form of Representation. Required special election following decennial census asking borough residents if they want their assembly members elected at large, elected at large but required to live in a district, or elected by and from districts. Boroughs must go to the expense of a special election whether or not there is any dissatisfaction with the current form of representation, and whether or not the assembly is malapportioned. This provision is not necessary because there already exists in law the initiative procedures which may be used by borough residents to change their form of representation.

Dual Plurality Tabulation. Results of above election must be tabulated both inside and outside cities; the assembly must devise a reapportionment plan which "conforms to the form of representation receiving a plurality of the votes in each classification at that election." Nowhere in the law does it say what happens if the people inside the cities vote one way and the people outside vote another.

Short Time Limit. AS 29.23.023 allows only four months for the assembly to devise a reapportionment plan, adopt an ordinance, and get that ordinance ratified by borough voters. Because of the amount of time needed for legal notices for adoption of ordinances and elections, assemblies would have very little time to come up with a reapportionment plan.

* * * * *

HIGHLIGHTS OF SENATE CS for CSHB 947

Apportionment Standards. As 29.23.021, as revised by SCSCSHB 947, sets out standards for assembly apportionment:

- 1.-consistent with equal representation standards of US Constitution;
- 2.-apportionment set out in incorporation petition approved by voters;
- 3.-no weighted voting;
- 4.-no institutional representation (city council may not appoint one or more of its members to serve on borough assembly).

Reapportionment Procedure. As 29.23.025, as revised by SCSCSHB 947, sets out procedures for assembly reapportionment:

- 1.-assembly determine if malapportioned within 2 months of census report;
- 2.-if malapportioned, assembly has 6 months to adopt by ordinance a reapportionment plan that must be ratified by voters;
- 3.-if no plan approved within 6 months, C&RA Commissioner provides reapportionment (similar provision in current law);
- 4.-allows reapportionment at times other than following a census;
- 5.-provides for advisory review by C&RA Commissioner and for judicial review;
- 6.-specifies election at which reapportionment plan goes into effect.

AS 29.23.025 is applicable to boroughs but not to unified municipalities. Another part of SCSCSHB 947 clarifies that unified municipalities must provide for reapportionment in their charters.

Miscellaneous Provisions. SCSCSHB 947 also deletes the requirement that the number of assembly members of new boroughs not exceed 11 and allows boroughs to establish by ordinance or charter the date on which assembly terms begin.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
507-465-3800

LEGISLATIVE AFFAIRS AGENCY

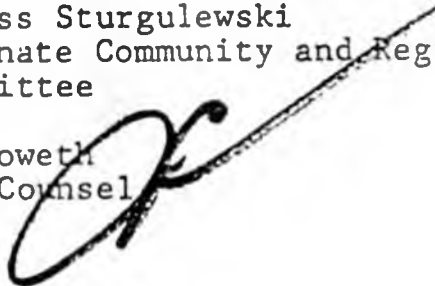
MEMORANDUM

May 9, 1980

SUBJECT: SCS CSHB 947, sectional analysis
(Work Order Number 8564)

TO: Senator Arliss Sturgulewski
Chairman, Senate Community and Regional
Affairs Committee

FROM: John B. Chenoweth
Legislative Counsel



This bill

(1) changes substantially requirements of law applicable to the composition and apportionment of the assemblies of boroughs; and

(2) alters requirements relating to the term of office of a member of a borough assembly.

*

Note: In sections 1 - 3 of Ch. 83, SLA 1979, the first session of the Eleventh Legislature made substantial changes in the law relating to the composition and apportionment of borough assemblies. These changes are due to become effective on January 1, 1981. The changes, generally include

(1) general provisions and standards applicable to the composition and apportionment of all boroughs, set out at AS 29.23.021;

(2) composition and representation requirements for general law boroughs (that is, exclusive of home rule boroughs and unified municipalities), set out at AS 29.23.023; and

(3) recomposition and reapportionment procedures applicable to all boroughs, set out at AS 29.23.025.

SCS CSHB 947 alters many of the provisions adopted last year.

*

A principal change in this bill is the repeal of AS 29.-23.023 [* Sec. 14] and the retention of some of the key provisions of that repealed section elsewhere.

* Sec. 3 of this bill deletes a reference to AS 29.23.023, appearing in AS 29.23.021. If adopted, the assembly of a borough or unified municipality would be required to conform to standards of composition and apportionment applicable under the Constitution of the United-States (popularly referred to as "equal protection"). Additionally, if adopted, the assembly of a borough could not provide for weighted voting, and, by the inclusion of the material in * Sec. 4 of the bill, could not include members appointed from city councils of cities in the borough (i.e. no "institutional representation").

* Sec. 4 "saves" a provision, now AS 29.23.023(c), and imposes it as a standard applicable to all boroughs and unified municipalities.

* Sec. 5 shortens, from four to two months, the period in which, after the report of census information, a borough is obliged to determine whether it meets existing apportionment standards under AS 29.23.021. (Last year, when AS 29.23.023 was enacted, it was understood that an official report of the 1980 census would be issued about April 1, 1981, and four months were allowed to boroughs to make the determination required.) Elsewhere in the section, the term "borough" is added to assembly, as clarification, and the reference to AS 29.23.023, repealed in sec. 14 of the bill, is corrected.

* Sec. 6: The operative provision is the inclusion of the words "by ordinance" to clarify how the borough shall provide for changes in composition as well as apportionment. Other changes in the section are for consistency.

* Sec. 7: The changes in AS 29.23.025(c) make more specific the requirements which are imposed on persons who wish to challenge a determination of the borough assembly concerning apportionment. "50 registered voters who are residents of the borough" is substituted for "50 borough voters" so that local elections officials may be able to determine with certainty whether a petition request is presented by bona fide residents of the borough. Additionally, when a determination is requested, the assembly is given two months to make that determination.

* Sec. 8 increases to six months (from four) the period of time in which the assembly, having ruled that it is malapportioned under the applicable standards, must (1) adopt a reapportionment ordinance and (2) submit it to the voters for approval. If no ordinance has been approved by the voters at the end of six months after a determination of the assembly that it is malapportioned, the commissioner of the Department of Community and Regional Affairs is given responsibility to impose a reapportionment plan. The plan is to be presented as an order of the commissioner delivered to the assembly for implementation.

* Sec. 9 establishes a plan for an advisory determination by the commissioner of community and regional affairs that an assembly is malapportioned or that an ordinance presenting a new apportionment plan, even after ratification by the voters, does not meet constitutional or statutory requirements. The provision has no legal effect as to any other procedures bearing upon changes of composition or apportionment, and appears to be available only for its local political effect.

By * Sec. 10, your committee clarifies which municipal election it is in which an apportionment or composition change becomes applicable.

New subsections of AS 29.23.025, added in * Section 11, indicate when voters may seek judicial review of a reapportionment ordinance or order, or an apportionment determination (whether of the borough assembly or of the commissioner of community and regional affairs), and delay implementation of an apportionment change or composition change if the change is subject to review and approval (or determination of nonobjection) by the United States Department of Justice under the 1965 Voting Rights Act, as

amended. Your committee inserted language in subsection (j), added by section 11, to indicate that the provisions of AS 29.23.025 applied to boroughs -- home rule and general law -- eliminating, by implication (but not specifically), applicability of AS 29.23.025 to unified municipalities.

Related changes involving composition and apportionment of borough assemblies appear in * sections 1, 2, and 13: In section 1, the provisions of AS 29.23.021 (relating to standards of composition and apportionment and manner of voting) are made binding on home rule governments, including home rule boroughs and unified municipalities. By section 2, a requirement that the assembly of a newly-incorporated borough not exceed 11 members is removed. Section 13 rewrites a requirement imposed on unified municipalities to require that their charter contain, when applicable, procedures for reapportionment (necessary because unified municipalities are impliedly exempted from the reapportionment procedures of AS 29.23.025).

Because, generally, the statutory sections which * Sections 1 - 11 and * Sections 13 and 14 replace are not due to take effect until January 1, 1981, the effective date of these changes is delayed to that date. [* Sec. 15]

Sec. 12, the remnant of the original House bill, makes further changes (in addition to those enacted last year at section 4, Ch. 83, SLA 1979) relative to the term of office of a borough assembly member. The principal operative amendment is the underscored language at page 5, lines 24 and 25, by which an exception to the date mandated for the start of the term of office of a borough assembly member may be made by a borough by charter or ordinance. The additional change -- the inclusion of new language in subsection (a) and the deletion of the second sentence of subsection (b) -- represents an attempt to make it clear that, except when required by a change in apportionment, the term of office of a member of a borough assembly may not be altered by action of the assembly, thus precluding foreshortening or extension of terms. AS 29.23.040 is binding on home rule governments by AS 29.13.100(3), re-enacted in sec. 1 of this bill. This change is given immediate effect in order to avoid problems which may arise in certain home rule municipalities having charter provisions contrary to the law as it currently reads immediately following the October, 1980, regular municipal elections. [Sec. 16]

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Sectional Analysis - Senate CS for HB 947

- ✓ Sec. 1. Makes AS 29.23.021 applicable to home rule municipalities. *sets up standards for computer & re-apportionments.*
- ✓ Sec. 2. Deletes requirement that the number of members of a borough assembly may not exceed 11. *no limit until next year -- applies to new boroughs*
- ✓ Sec. 3. Deletes reference to AS 29.23.023, which is repealed by Sec. 14 of this bill.
- ✓ Sec. 4. Prohibits institutional representation. *city council can't be borough assemblyman.*
- ✓ Sec. 5. Requires assembly to determine if malapportioned; changes time limit from 4 months to 2 months; deletes reference to AS 29.23.023.
- ✓ Sec. 6. Deletes reference to AS 29.23.023; requires changes in apportionment or composition to be made by ordinance - AS 29.23.025(d) requires voter approval of apportionment and composition ordinances.
- ✓ Sec. 7. Clarifies wording and requires borough assembly to make a determination if malapportioned if petitioned by 50 registered voters who are residents of the borough.
- ✓ Sec. 8. Lengthens time limit from 4 months to 6 months to adopt a reapportionment ordinance and clarifies wording about Dept. of C&RA providing for reapportionment. *[29.23.025@ need reference back]*
- ✓ Sec. 9. New section which provides review by the C&RA Commissioner if petitioned by 50 registered voters who are residents of the borough.
- ✓ Sec. 10. Technical change in effective date of reapportionment plans.
- ✓ Sec. 11. Provides for judicial review; makes section applicable to home rule and general law boroughs and to unified municipalities whose assemblies are not elected at large or whose charter does not contain reapportionment provisions. *current law applies to home rule.*
- ✓ Sec. 12. Permits reapportionment to change the regular term of office of an assemblyman; permits charter or ordinance to change when the regular term of office begins. *large (charter) apply to section - elected to at large*
- ✓ Sec. 13. Clarifies that charters for unified municipalities must contain provisions for reapportionment procedures.
- ✓ Sec. 14. Repeals AS 29.23.023, which would require special elections on forms of representation, dual-plurality to implement, and extremely tight time limits.
- ✓ Sec. 15 & 16. Effective date sections.

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SCS CSHB 947 - Assembly Apportionment and Reapportionment

The borough assembly apportionment and reapportionment provisions of SCS CSHB 947 basically go back to what was in Title 29 prior to the complicated amendments that were adopted last session. In addition, this bill contains three improvements to the prior law:

1. -deletes the dual majority provision, which required assembly adopted reapportionment ordinances to be ratified by the voters inside and outside cities;

2. -clarifies that weighted voting is not permissible; and

3. -clarifies that institutional representation is prohibited, per an attorney general's opinion.