

HB

947

COMMITTEE REPORT

SENATE

FURTHER: None

4/14/80

Date: 5-8-78

Mr. President:

The Committee on COMMUNITY AND REGIONAL AFFAIRS has had CSHB 567

term of office of borough assemblyment

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 CSHB 247  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Tom Kelly

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Patricia Kelsey

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

CHAIRMAN



# Committee Log Book - 1980

SENATE C/RA

Tape Number XXVII  
 Tapes 1 & 2 \_\_\_\_\_  
 Side Number 1&2  
 Dates 5/6/80 to ----

Committee \_\_\_\_\_

Present: Chairman Sturgulewski  
 Senators Stimson, Mulcahy, Kelly

Absent: Senator Rodey  
 Bill Numbers Discussed

SB	CSHB								
535	947								

Date & Time	Tape Meter Number	Bill	Significant Information (Witness, Action)
5/6/80 1:30 p	001	SB 535	Chrm Sturgulewski
	049		Sen J. Mimsen (Bill Sponsor)
	091		Sen. Stimson
	217		Gary Crouse, Dep. Dir., Fire Prevention Office <span style="float: right;">Dept. Pub. Safety</span>
	320		Sen. Stimson
	420		Tom Munk, St. Firefighters Assoc.
	494		Sen. Stimson
	529		Sen. Kelly - amend. to include fire marshall or designee in membership.
	668		Sen. Stimson - Explanation
	704		Sen. Kelly moved for amend. p. 1, line 26
	734		Sen. Stimson objects/ concern too much flexibility lack of guidelines.
	782		Further amendments discussion.
	804		Sen. Kelly moved to pass bill unanimously with amendments: Page 1, line 26: Delete <u>one public member</u> and insert <u>State Fire Marshall or his designee</u> // Page 3, line 10: Delete <u>1984</u> and insert <u>1983</u> // and Page 3, line 15: Delete
			<u>1984</u> and insert <u>1983</u>

Sen. Stimson objected - wanted w/ ind. rec.  
 Chairman Sturgulewski "do pass"

OVER

CSHB  
947

817 Chairman Sturgulewski/ Summary

838 Sen. Stimson/ Motion to adopt  
843 Ginny Chitwood, AML

SIDE 2

70 Sen. Stimson  
253 " Kelly / Reapportionment  
280 " Stimson  
328 " " / Assemblies/ Candidates / run-at-large  
468 Chrmn Sturgulewski/ What if CRA does find malapportionment?

504 Sen. Kelly  
508 " Stimson  
517 " Kelly/ What apply to home rule boroughs?  
712 " Stimson/ Sec. A  
805 Chrmn Sturgulewski/ summary  
810 Lee Sharp, City Attorney, Borough of Juneau  
862 " " Recommend taking out unified municipalities

TAPE 2

034 Sen. Kelly  
059 Lee Sharp/ feel no reviewing agency needed.  
102 " "/ Federal voting procedures act needs provision for.  
276 Sen. Sturgulewski/ will return with CS next committee meeting.  
377 MEETING ADJOURNED.



May 9, 1980

TO: Senator Mike Colletta  
Attn: Marcie Sharrock

FROM: Twyla Hartsock, Administrative Assistant  
Senator Sturgulewski's Office

RE: SCS CS HB 947

Senator Sturgulewski would appreciate your holding the above bill until later next week. We are waiting for a sectional analysis from Legal which she would like to hand to all legislators when this bill comes out for floor action. When this analysis is received, we will contact you.

Thank you for your assistance.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

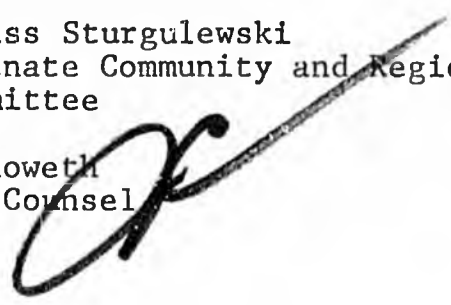
MEMORANDUM

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 CSMB 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

Senator Arliss Sturgulewski

Page 4

May 9, 1980

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]

JBC:ljb



Official Business

# Alaska State Legislature

Senate

Committee on  
Community & Regional Affairs

Pouch: V  
State Capitol  
Juneau, Alaska 99811

May 8, 1980

TO: JOHN B. CHENOWETH  
LEGISLATIVE COUNSEL

FROM: *JH* TYWLA HARTSOCK  
ADMINISTRATIVE ASSISTANT  
SENATE C/RA

RE: W.O. 8250

Please insert the following changes to the "Committee Substitute" received earlier today:

page 4, line 23 - add "only" following "apply"  
line 24 - add a period following borough and delete the  
rest of line - and  
line 25 - delete

This bill with the above changes incorporated, passed out of our committee this date. As soon as the jacketed final copy is received from your office it will be turned into the Senate Secretary's Office for processing.

A sectional analysis is still requested. This will be passed out to all Senators when the bill appears for Senate floor action.

Thank you for all your time and attention given this bill!

May 7, 1980

TO: John B. Cheroweth  
Legislative Counsel

FROM: Twyla Hartsock, Administrative Assistant  
Senate C/RA Committee

RE: W.O. 8250

A sectional analysis is requested on SCS CS HB 947, the latest revised version as of this date.

Question - AS 23.025 (f) p. 3

If the commissioner determines maladjustment, what happens next? The Senate C/RA members feel the commissioner's findings should be advisory only and that there would be no legal ramifications involved. Page 4, line 14-16 -- scratch G-(3) to reflect above intent. Section 29.23.025. Judicial - should also reflect above intent.

Page 4 - change period to a semicolon and add the following, beginning in the next line:

"provided, if the change in subject to review by a federal agency, the change shall become effective with the first regular election of borough assembly members which is held more than 60 days after receipt of such agency approval of or nonobjection to the change or the expiration of the time during which the agency may object."

Above should apply to both sections (1) and (2).

Page 4, delete lines 25-29

Page 5, delete lines 1-3

Page 5, line 9, delete under AS 29.23.025

Page 5, line 22, delete borough assembly and insert "legislative body"

Page 5, end of line 22, delete "borough"

Page 5, line 23, delete "assembly"

STATE OF ALASKA  
THE LEGISLATURE

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

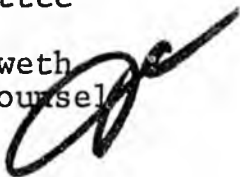
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 1, 1980

SUBJECT: SCS CSHB 947 (Borough assemblies)

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

FROM: John B. Chenoweth  
Legislative Counsel 

In this version (May 1), the following changes have been made to the bill designated "version 2" and dated April 22:

(1) A time limit of 60 days has been placed on the commissioner for the issuance of a decision on an appeal;

(2) The "appeal" mechanism provided in AS 29.23.025(f) has been made a prerequisite to judicial review: disgruntled citizens may not directly approach the courts without first petitioning the commissioner for review;

(3) Exemption from the provisions of AS 29.23.025 is extended to existing unified municipalities whose assemblies are elected at-large (I believe the City and Borough of Sitka may meet this test), and to existing unified municipalities where election is by district or section if the commissioner of community and regional affairs determines that the charter contains "adequate" reapportionment procedures, and so certifies (covering situations in Anchorage and Juneau: since the Anchorage charter was written to conform to AS 29.68.350(a)(2) of the 1972 Municipal Code, the procedures provided in it are almost certainly "adequate," leaving only Juneau's charter to stand the "test").

JBC:ljb

Enclosure

WC#8250  
Version #2  
Chenoweth ✓✓

Original sponsor: Community and Regional  
Affairs Committee

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR 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 ordin-  
24 ance.

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 29.23.025(a) is amended to read:

29 (a) Within two (NOT LATER THAN JULY 31, 1981, AND THEREAFTER

1 WITHIN FOUR] months after the official report of a federal decennial  
2 census, the borough assembly shall determine and declare by resolution  
3 if the existing apportionment of the assembly meets the applicable  
4 standards of AS 29.23.021 [AS 29.23.021 - 29.23.023].

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

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

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

12 (c) In addition to providing for apportionment at the times re-  
13 quired under (b) of this section, the borough assembly shall provide by  
14 ordinance for its reapportionment and may provide, by ordinance, for a  
15 change in its composition whenever it determines, on the basis of federal  
16 census reports or other reliable population data, that the existing  
17 apportionment does not meet the standards for apportionment in AS 29.23.-  
18 021. If a petition signed by not less than 50 registered [BOROUGH]  
19 voters who are residents of the borough requests the borough assembly to  
20 determine whether the existing apportionment meets the standards for  
21 apportionment in AS 29.23.021, and the petition contains evidence that  
22 the existing apportionment does not meet those standards, the assembly  
23 may [SHALL] make the determination requested. The borough assembly shall  
24 make a determination when required by this subsection within two months  
25 of its receipt of a petition which meets the requirements of this subsec-  
26 tion.

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

28 (e) Within six [FOUR] months of a determination by the borough  
29 assembly that the current apportionment does not meet the standards of

1 AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall  
2 adopt an ordinance providing for reapportionment, and submit the ordi-  
3 nance to the voters. If, at the end of the six-month [FOUR-MONTH] time  
4 period, an ordinance providing for reapportionment has not been approved  
5 by the voters, the commissioner of the Department of Community and  
6 Regional Affairs shall provide for the reapportionment in accordance  
7 with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by prepar-  
8 ing an order of reapportionment and delivering the order to the borough  
9 mayor.

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

11 (f) A reapportionment ordinance approved by the voters, or a  
12 determination of the borough assembly that the standards of AS 29.23.021  
13 do not require a change in apportionment, may be appealed to the commis-  
14 sioner of the Department of Community and Regional Affairs. Fifty  
15 registered voters who are residents of the borough may submit a petition  
16 to the commissioner of community and regional affairs requesting the  
17 commissioner to determine whether the proposed reapportionment ordinance  
18 approved by the voters meets the standards of AS 29.23.021, or whether a  
19 determination of the borough assembly that the standards of AS 29.23.021  
20 do not require a change of apportionment is correct. If the petition  
21 asks the commissioner of community and regional affairs to review an  
22 ordinance approved by the voters under (e) of this section, the petition  
23 shall be delivered to the commissioner not later than 20 days after  
24 certification of the election. If the petition asks the commissioner of  
25 community and regional affairs to review a determination of the borough  
26 assembly under (c) of this section, the petition shall be delivered to  
27 the commissioner within 20 days of the determination of the borough  
28 assembly. The commissioner of community and regional affairs shall  
29 review the petition and may make the determination requested. The

1 commissioner of community and regional affairs shall provide copies of  
2 his decision to the persons petitioning for appeal and to borough offi-  
3 cials not later than 60 days after he receives the petition.

4 \* Sec. 10. 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 latest  
8 of the following:

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

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

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

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

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

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

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

23 (i) The provisions of this section apply to

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

25 (2) a unified municipality incorporated under AS 29.68.240 -  
26 29.68.440 before the effective date of this section, unless

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

29 (B) the commissioner of community and regional affairs

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

4 \* Sec. 12. AS 29.23.040 is amended to read:

5 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are  
6 selected for three-year terms and until their successors are selected  
7 and have qualified, unless different terms not exceeding four years are  
8 prescribed by borough charter or ordinance. Except when otherwise re-  
9 quired by a change of apportionment under AS 29.23.025, if the term of  
10 an assemblyman is changed by charter or ordinance, the term of an assem-  
11 blyman holding office at the time the change takes effect is not af-  
12 ected by that change.

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

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

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

19 (2) provisions for

20 (A) the establishment of service areas; and

21 (B) the establishment of districts or sections for the  
22 election of members of the borough assembly, if election of borough  
23 assembly members is not areawide, and procedures by which to reap-  
24 portion the election districts or sections;

25 \* Sec. 14. AS 29.23.023 is repealed.

26 \* Sec. 15. Sections 1 - 11, 13, and 14 of this Act take effect January 1,  
27 1981.

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

**BILL ANALYSIS**

ASSIGNMENT DATE \_\_\_\_\_

UNASSIGNED \_\_\_\_\_

<b>DEPARTMENT</b>	<b>SPONSOR (PRINCIPAL)</b>	<b>BILL NO.</b>
Community & Regional Affairs	House Community & Regional Affairs Committee	CSHB 947
<b>DEPARTMENT POSITION</b>		
Support		
<b>DIVISION DIRECTOR</b>	<b>DATE</b>	<b>COMMISSIONER</b>
Palmer McCarthy	4/16/80	Les McArdney
<b>GOVERNOR'S OFFICE USE</b>		
<input type="checkbox"/> POSITION NOTED <input type="checkbox"/> POSITION APPROVED <input type="checkbox"/> POSITION DISAPPROVED		
BY: _____ DATE: _____		
<b>SUMMARY</b>		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL	/	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
<b>(3) PROGRAM EFFECTS OF BILL</b>		
<p>This bill would give home rule and general law boroughs the power to establish the date a newly elected assemblyman's term begins. Under current law, the term of office must begin on the first Monday following certification of the election.</p> <p>The committee substitute adds the provision an assemblyman is not affected if his term is changed while he is holding office. He would complete the term for which he was elected.</p>		
<b>(4) FISCAL IMPACT:</b> <input checked="" type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL ANALYSIS ATTACHED		
<b>(5) AMENDMENTS PROPOSED:</b>		
<b>(6) COMMENTS:</b>		

This bill gives boroughs greater flexibility in providing for self-government.

CS HB947

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.						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING (Thousands of Dollars)

	6	0	0	0	0	0
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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)

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.

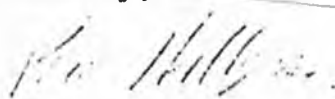
Second: The Mayor (while having no special powers in Sitka) may continue to be sworn into office at the meeting where the election is certified since the Legislative enactments covering the beginning of Mayors' terms are not made applicable to Home Rule Municipalities. That's also going to look real 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



# 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?

Return all this material with the  
CS redraft....

Attn: Margo Waring

WO 8250 ✓  
Version 1  
Chenoweth

Original sponsor: Community and Regional  
Affairs Committee

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 SENATE CS FOR 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 providing  
7 for an effective date."

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

9 \* Section 1. AS 29.18.050(4) is amended to read:

10 (4) composition and apportionment of the assembly or council

11 [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

12 \* Sec. 2. AS 29.23.021(b) is amended to read:

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

21 \* Sec. 3. AS 29.23.021 is amended by adding a new subsection to read:

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

24 \* Sec. 4. AS 29.23.025(a) is amended to read:

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

1 \* Sec. 5. AS 29.23.025(b) is amended to read:

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

7 \* Sec. 6. AS 29.23.025(c) is amended to read:

8 (c) In addition to providing for apportionment at the times re-  
9 quired under (b) of this section, the borough assembly shall provide by  
10 ordinance for its reapportionment and may provide, by ordinance, for a  
11 change in its composition whenever it determines, on the basis of  
12 federal census reports or other reliable population data, that the  
13 existing apportionment does not meet the standards for apportionment in  
14 AS 29.23.021. If a petition signed by not less than 50 registered  
15 [BOROUGH] voters who are residents of the borough requests the assembly  
16 to determine whether the existing apportionment meets the standards for  
17 apportionment in AS 29.23.021, and the petition contains evidence that  
18 the existing apportionment does not meet those standards, the assembly  
19 may [SHALL] make the determination requested. The assembly shall make a  
20 determination when required by this subsection within two months of its  
21 receipt of a petition which meets the requirements of this subsection.

22 \* Sec. 7. AS 29.23.025(e) is amended to read:

23 (e) Within six [FOUR] months of a determination by the assembly  
24 that the current apportionment does not meet the standards of AS 29.23.-  
25 021 [AS 29.23.021 - 29.23.025], the assembly shall adopt an ordinance  
26 providing for reapportionment, and submit the ordinance to the voters.  
27 If, at the end of the six-month [FOUR-MONTH] time period, an ordinance  
28 providing for reapportionment has not been approved by the voters, the  
29 commissioner of the Department of Community and Regional Affairs shall

1 provide for the reapportionment in accordance with the standards of  
 2 AS 29.23.021 [AS 29.23.021 - 29.23.023] by preparing an order of reappor-  
 3 tionment and delivering the order to the borough mayor.

4 \* Sec. 8. AS 29.23.025(f) is repealed and re-enacted to read:

5 (f) A reapportionment ordinance approved by the voters, or a  
 6 determination of the borough assembly that the standards of AS 29.23.021  
 7 do not require a change in apportionment, may be appealed to the commis-  
 8 sioner of the Department of Community and Regional Affairs. If, within  
 9 10 days after certification of the election held under (e) of this  
 10 section, 50 registered voters who are residents of the borough submit a  
 11 petition to the commissioner of community and regional affairs re-  
 12 questing the commissioner to determine whether the proposed reapportion-  
 13 ment ordinance approved by the voters does not meet the standards of  
 14 AS 29.23.021, or a determination of the borough assembly that the stan-  
 15 dards of AS 29.23.021 do not require a change of apportionment, the  
 16 commissioner shall review the petition and <sup>shall?</sup> may make the determination  
 17 requested. *time limit?*

18 \* Sec. 9. AS 29.23.025(g) is amended to read:

19 (g) A change in assembly apportionment or composition under this  
 20 section is effective beginning with the first regular election for  
 21 members of the assembly which is held more than 60 days after the latest  
 22 of the following:

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

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

28 (3) a final determination of the commissioner of community  
 29 and regional affairs of an appeal under (f) of this section approving

1 a revised [FOLLOWS APPROVAL OF A] reapportionment ordinance.

2 \* Sec. 10. AS 29.23.025 is amended by adding a new subsection to read:

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

4 (1) a reapportionment ordinance approved by the voters under  
5 (e) of this section;

6 (2) a determination by the borough assembly under (c) of this  
7 section that the standards of AS 29.23.021 do not require a change in  
8 apportionment;

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

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

13 \* Sec. 11. AS 29.23.040 is amended to read:

14 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are  
15 selected for three-year terms and until their successors are selected  
16 and have qualified, unless different terms not exceeding four years are  
17 prescribed by borough charter or ordinance. Except when otherwise re-  
18 quired by a change of apportionment under AS 29.23.025, if the term of  
19 an assemblyman is changed by charter or ordinance, the term of an assem-  
20 blyman holding office at the time the change takes effect is not af-  
21 ected by that change.

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

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

27 \* Sec. 12. AS 29.23.023 is repealed.

28 \* Sec. 13. Sections 1 - 10 and 12 of this Act take effect January 1, 1981.

29 \* Sec. 14. Sections 11, 13 and 14 of this Act take effect immediately in

1 accordance with AS 01.10.070(c).

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title 29 subg leaves up to  
council - sets no criteria

People get to vote 1 - ~~no~~ 1 vote  
no weighted vote no proportional rep

change to AS 29.23.021

add (d) - see next page

(note or 3 calls for special election --

eliminate sec 29.23.023

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

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with AS 29.23.021 and prescribed by charter or ordinance.

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

(d)

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

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

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

Statute superseded home-rule enactments. — See *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2210, 528 P.2d 450 (1974), decided under former AS 29.23.020.

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

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

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

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

(c) A member of the assembly of a general law borough may not be elected or appointed by and from the council of a city in the borough. (§ 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. 2 months

(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

*conceded problem*

*include this wording as part (d) in AS 29.23.021*

*(a) Eliminate 1st phrase, change "four" to "two", delete reference to 29.23.023*

*(b) Eliminate reference to 29.23.023 and add "by ordinance"*

*(c) Add "by ordinance" and a provision at the end requiring Dept. of C+RA review if requested by petitioners.*

*(e) change "four" to "six"*

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

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

reapportionment, and submit the ordinance to the voters. If, at the end of the four-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. *by order of*

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

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

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

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

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

effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Statute superseded home-rule enactments. — See *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974), decided under former AS 29.23.029. *CRA (Comm) order*

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

**Sec. 29.23.040. Regular term of office.** Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. The regular term of office begins on the first Monday following certification of the election. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 13 ch 118 SLA 1972; am § 4 ch 83 SLA 1979)

**Effect of amendment.**

The 1979 amendment, effective June 2, 1979, rewrites 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 affected 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.

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

#### Effect of amendments.

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

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

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

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

STATE OF ALASKA  
THE LEGISLATURE

11/6 12:00 5/1  
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

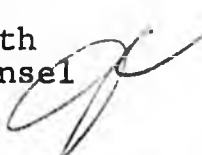
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 22, 1980

SUBJECT: SCS HB 947 (Borough assemblies)

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

FROM: John B. Chenoweth  
Legislative Counsel 

The proposed committee substitute version 1 is based on discussions held Friday, April 18th, with Twyla Hartsock, committee administrative assistant, and Ginny Chitwood, representing the Municipal League. The material that is new in the proposed Senate committee substitute was requested by the Municipal League and includes my additional editorial changes principally for the purposes of clarity of the procedure which is to be followed.

The proposed committee substitute version 2 is based on subsequent instructions from Twyla on Tuesday, April 22nd, in response to a request from Marilyn Miller of the Municipal League (subsequently withdrawn) asking that the provisions of AS 29.23.025 be drafted so that they apply only to home rule and general law boroughs (that is, they would not apply to unified municipalities).

The principal difference between the versions centers on the exemption, in version 2, of unified municipalities from the provisions of AS 29.23.025. ✓

The purpose of this memo is to request committee guidance on one point. Ginny wanted language included by which, even after the voters of a borough approved a proposed change in apportionment, dissatisfied residents could still challenge the particulars of the proposed ordinance or charter change. That challenge would involve an appeal to the commissioner of community and regional affairs. Ginny's stated purpose in including the provision was to provide an alternative to long and potentially expensive litigation on the questions

Senator Arliss Sturgulewski  
Page 2  
April 22, 1980

if presented to a court. I have included her suggestion in this bill draft, re-enacting AS 29.23.025(f), and removing the judicial review provision to AS 29.23.025(h). As this is written (based on Ginny's advice), a disgruntled party may either appeal to the commissioner or appeal to the court. The committee may want to redraft the provision to require the parties to appeal to the commissioner, and allow an appeal to the court only from the decision of the commissioner, assuring that the matter is administratively handled in the first instance.

*yes preferable.*

If it chooses to work with version 2, the committee should consider inclusion of language, probably in AS 29.23.025(i), added by sec. 11 of that version, to the effect that the provisions of AS 29.23.025 apply to a unified municipality only if that municipality does not provide by ordinance for procedures for assembly reapportionment substantially similar to the requirements of AS 29.68.350(a)(2), re-enacted in sec. 13 of the bill. If this is not included, it would be possible that one of the three unified municipalities -- Anchorage, Juneau, and Sitka -- would not provide by charter for procedures to handle reapportionment; there being no local provisions, and the provisions of state law being inapplicable, disgruntled residents could only approach the courts to handle the matter -- a situation which would be wholly inconsistent with the position stated by Ginny Chitwood in defense of the Municipal League's request to provide an alternative to long and expensive litigation. The changes made in AS 29.68.350(a)(2) by sec. 13 of the bill would apply to unified municipalities incorporated after the effective date of the bill.

*agree*

JBC:jdn

Enclosures <sup>\*</sup> Ginny says law requires it see p. 5 v.I.

AMC  
Either version w/changes as per, OK

Ketch/jmm. change in term of assemblymen - no more problems

Ketch. send draft.  
telet

2 as changed above

Original sponsor: Community and Regional  
Affairs Committee

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 SENATE CS FOR 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 ordin-  
24 ance.

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 29.23.025(a) is amended to read:

29 (a) Within two [NOT LATER THAN JULY 31, 1981, AND THEREAFTER

1        WITHIN FOUR] months after the official report of a federal decennial  
2        census, the borough assembly shall determine and declare by resolution  
3        if the existing apportionment of the assembly meets the applicable  
4        standards of AS 29.23.021 [AS 29.23.021 - 29.23.023].

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

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

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

12            (c) In addition to providing for apportionment at the times re-  
13        quired under (b) of this section, the borough assembly shall provide by  
14        ordinance for its reapportionment and may provide, by ordinance, for a  
15        change in its composition whenever it determines, on the basis of federal  
16        census reports or other reliable population data, that the existing  
17        apportionment does not meet the standards for apportionment in AS 29.23.-  
18        021. If a petition signed by not less than 50 registered [BOROUGH]  
19        voters who are residents of the borough requests the borough assembly to  
20        determine whether the existing apportionment meets the standards for  
21        apportionment in AS 29.23.021, and the petition contains evidence that  
22        the existing apportionment does not meet those standards, the assembly  
23        may [SHALL] make the determination requested. The borough assembly shall  
24        make a determination when required by this subsection within two months  
25        of its receipt of a petition which meets the requirements of this subsec-  
26        tion.

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

28            (e) Within six [FOUR] months of a determination by the borough  
29        assembly that the current apportionment does not meet the standards of

1 AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall  
 2 adopt an ordinance providing for reapportionment, and submit the ordi-  
 3 nance to the voters. If, at the end of the six-month [FOUR-MONTH] time  
 4 period, an ordinance providing for reapportionment has not been approved  
 5 by the voters, the commissioner of the Department of Community and  
 6 Regional Affairs shall provide for the reapportionment in accordance  
 7 with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by prepar-  
 8 ing an order of reapportionment and delivering the order to the borough  
 9 mayor.

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

11 (f) A reapportionment ordinance approved by the voters, or a  
 12 determination of the borough assembly that the standards of AS 29.23.021  
 13 do not require a change in apportionment, may be appealed to the commis-  
 14 sioner of the Department of Community and Regional Affairs. If, within  
 15 10 days after certification of the election held under (e) of this  
 16 section, 50 registered voters who are residents of the borough submit a  
 17 petition to the commissioner of community and regional affairs requesting  
 18 the commissioner to determine whether the proposed reapportionment  
 19 ordinance approved by the voters does not meet the standards of AS 29.-  
 20 23.021, or a determination of the borough assembly that the standards of  
 21 AS 29.23.021 do not require a change of apportionment, the commissioner  
 22 shall review the petition and may make the determination requested. *+file 1/14/17?*

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

24 (g) A change in assembly apportionment or composition under this  
 25 section is effective beginning with the first regular election for  
 26 members of the assembly which is held more than 60 days after the latest  
 27 of the following:

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

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

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

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

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

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

11                 (2) a determination by the borough assembly under (c) of this  
12 section that the standards of AS 29.23.021 do not require a change in  
13 apportionment;

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

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

18           (i) The provisions of this section apply to a home rule and a  
19 general law borough, but do not apply to a unified municipality incor-  
20 porated under AS 29.68.240 - 29.68.440.

21 \* Sec. 12. AS 29.23.040 is amended to read:

22           Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are  
23 selected for three-year terms and until their successors are selected  
24 and have qualified, unless different terms not exceeding four years are  
25 prescribed by borough charter or ordinance. Except when otherwise re-  
26 quired by a change of apportionment under AS 29.23.025, if the term of  
27 an assemblyman is changed by charter or ordinance, the term of an assem-  
28 blyman holding office at the time the change takes effect is not af-  
29 ected by that change.



WO 8250 /  
Chenoweth  
Version #2

3

Original sponsor: Community and Regional  
Affairs Committee

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR 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 ordin-  
24 ance.

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 29.23.025(a) is amended to read:

29 (a) Within two [NOT LATER THAN JULY 31, 1981, AND THEREAFTER

1 WITHIN FOUR] months after the official report of a federal decennial  
2 census, the borough assembly shall determine and declare by resolution  
3 if the existing apportionment of the assembly meets the applicable  
4 standards of AS 29.23.021 [AS 29.23.021 - 29.23.023].

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

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

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

12 (c) In addition to providing for apportionment at the times re-  
13 quired under (b) of this section, the borough assembly shall provide by  
14 ordinance for its reapportionment and may provide, by ordinance, for a  
15 change in its composition whenever it determines, on the basis of federal  
16 census reports or other reliable population data, that the existing  
17 apportionment does not meet the standards for apportionment in AS 29.23.-  
18 021. If a petition signed by not less than 50 registered [BOROUGH]  
19 voters who are residents of the borough requests the borough assembly to  
20 determine whether the existing apportionment meets the standards for  
21 apportionment in AS 29.23.021, and the petition contains evidence that  
22 the existing apportionment does not meet those standards, the assembly  
23 may [SHALL] make the determination requested. The borough assembly shall  
24 make a determination required by this subsection within two months of  
25 receipt of a petition which meets the requirements of this subsection.

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

27 (e) Within six [FOUR] months of a determination by the borough  
28 assembly that the current apportionment does not meet the standards of  
29 AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall

1 adopt an ordinance providing for reapportionment, and submit the ordi-  
2 nance to the voters. If, at the end of the six-month [FOUR-MONTH] time  
3 period, an ordinance providing for reapportionment has not been approved  
4 by the voters, the commissioner of the Department of Community and  
5 Regional Affairs shall provide for the reapportionment in accordance  
6 with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by prepar-  
7 ing an order of reapportionment and delivering the order to the borough  
8 mayor.

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

10 (f) A reapportionment ordinance approved by the voters, or a  
11 determination of the borough assembly that the standards of AS 29.23.021  
12 do not require a change in apportionment, may be appealed to the commis-  
13 sioner of the Department of Community and Regional Affairs. Fifty  
14 registered voters who are residents of the borough may submit a petition  
15 to the commissioner of community and regional affairs requesting the  
16 commissioner to determine whether the proposed reapportionment ordinance  
17 approved by the voters meets the standards of AS 29.23.021, or whether a  
18 determination of the borough assembly that the standards of AS 29.23.021  
19 do not require a change of apportionment is correct. If the petition  
20 asks the commissioner of community and regional affairs to review an  
21 ordinance approved by the voters under (e) of this section, the petition  
22 shall be delivered to the commissioner not later than 20 days after  
23 certification of the election. If the petition asks the commissioner of  
24 community and regional affairs to review a determination of the borough  
25 assembly under (c) of this section, the petition shall be delivered to  
26 the commissioner within 20 days of the determination of the borough  
27 assembly. The commissioner of community and regional affairs shall  
28 review the petition and may make the determination requested. The  
29 determination of the commissioner of community and regional affairs is

1 advisory. The commissioner shall provide copies of his advisory  
2 determination to the persons petitioning for appeal and to borough  
3 officials not later than 60 days after he receives the petition.

4 \* Sec. 10. 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 the reapportionment order of  
12 the commissioner of community and regional affairs under (e) of this  
13 section [FOLLOWS APPROVAL OF A REAPPORTIONMENT ORDINANCE].

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

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

16 (1) a reapportionment ordinance approved by the voters under  
17 (e) of this section;

18 (2) a determination by the borough assembly under (c) of this  
19 section that the standards of AS 29.23.021 do not require a change in  
20 apportionment; and

21 (3) a reapportionment order of the commissioner of community  
22 and regional affairs made under (e) of this section.

23 (i) The provisions of this section apply to a home rule or general  
24 law borough, ~~but do not apply to a unified municipality incorporated~~  
25 ~~under AS 29.68.240 - 29.68.440.~~

26 (j) The provisions of (g) of this section do not apply to a  
27 borough in which a change in assembly composition or apportionment is  
28 subject to review and approval or determination of nonobjection by  
29 the Attorney General of the United States under the Voting Rights Act of

1 1965, as amended (42 U.S.C. 1971 - 1974). A change in assembly  
2 composition or apportionment subject to review under the Voting Rights  
3 Act of 1965, as amended, is effective beginning with the first regular  
4 election for members of the assembly which is held more than 60 days  
5 after

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

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

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

15 \* Sec. 12. AS 29.23.040 is amended to read:

16 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are  
17 selected for three-year terms and until their successors are selected  
18 and have qualified, unless different terms not exceeding four years are  
19 prescribed by borough charter or ordinance. Except when otherwise re-  
20 quired by a change of apportionment, if the term of an assemblyman is  
21 changed by charter or ordinance, the term of an assemblyman holding  
22 office at the time the change takes effect is not affected by that  
23 change.

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

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

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

1 (2) provisions for

2 (A) the establishment of service areas; and

3 (B) the establishment of districts or sections for the  
4 election of members of the legislative body of the unified municipi-  
5 pality, if election of members of the legislative body is not  
6 areawide, and procedures by which to reapportion the election  
7 districts or sections;

8 \* Sec. 14. AS 29.23.023 is repealed.

9 \* Sec. 15. Sections 1 - 11, 13, and 14 of this Act take effect January 1,  
10 1981.

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

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

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

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

(d) Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981. Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979." Statute superseded home rule enactments. — See Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 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.~~

change to AS-9.23.021  
add (d) - see next page

eliminate Sec. 29.23.023

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 <sup>four</sup> 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 <sup>by ordinance</sup> for its reapportionment. At the same time, the assembly may change <sup>the</sup> 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 <sup>by ordinance</sup> 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 <sup>six</sup> four months of a determination by the assembly that the current apportionment does not meet the standards of AS 29.23.021 — 29.23.025, the assembly shall adopt an ordinance providing for

include this wording as part (d) in AS 29.23.021

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

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

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

reapportionment, and submit the ordinance to the voters. If, at the end of the <sup>30</sup>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) v - ld not sooner than sixty (60) days following approval of a reapportionment ordinance

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

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

effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

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

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

**Sec. 29.23.040. Regular term of office.** Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. The regular term of office begins on the first Monday following certification of the election. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 13 ch 118 SLA 1972; am § 4 ch 83 SLA 1979)

**Effect of amendment.**

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

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

council seats are not affected 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.

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

**Effect of amendments.**

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

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

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

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

CS HB947

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.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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)

contain the signatures of 25 percent of those voting in the last general election. Area Dispatch, Inc. v. City of Anchorage, Sup. Ct. Op. No. 1231 (File No. 2624), 544 P.2d 1024 (1976).

## Article 2. Home Rule Limitations.

### Section

#### 160. 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 (CSHB 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	Section
50. Petition	100. [Repealed]
70. Investigation	110. Incorporation election
80. Report and hearing	120. Election of initial officers
90. Decision on municipal incorporation	

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

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. 29.23.021. 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. 1699 (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.

\* **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:

*None keeping*  
(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

*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. (§ 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 it fails -* If, at the end of the six-month [FOUR-MONTH] time period, an ordinance providing for reapportionment *Existing Law -* 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

Census Figures Available next April

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 (e) 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

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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 25 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.

(g) Costs, fees, and other expenses incurred by the charter commission are a debt of the borough and shall be paid upon proper verification. (§ 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 1972, deleted the language following amendment, effective September 10, "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  
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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.

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 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.

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 on forms of representation, dual-plurality to implement, and extremely tight time limits.

Sec. 15 & 16. Effective date sections.

BILL ANALYSIS

ASSIGNMENT DATE \_\_\_\_\_

UNASSIGNED \_\_\_\_\_

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Community & Regional Affairs	House Community & Regional Affairs Committee	CSHB 947

DEPARTMENT POSITION  
Support

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Palmer McCarthy	4/16/80	Lee McCreary	16.4.80

GOVERNOR'S OFFICE USE

POSITION NOTED                     
  POSITION APPROVED                     
  POSITION DISAPPROVED

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) OTHER AGENCIES AFFECTED BY BILL

(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL
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(3) PROGRAM EFFECTS OF BILL

This bill would give home rule and general law boroughs the power to establish the date a newly elected assemblyman's term begins. Under current law, the term of office must begin on the first Monday following certification of the election.

The committee substitute adds the provision an assemblyman is not affected if his term is changed while he is holding office. He would complete the term for which he was elected.

(4) FISCAL IMPACT                     
  NONE                     
  FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS

This bill gives boroughs greater flexibility in providing for self-government.

# Alaska MUNICIPAL League

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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.

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 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.

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 on forms of representation, dual-plurality to implement, and extremely tight time limits.

Sec. 15 & 16. Effective date sections.

# HOUSE

## DAILY COMMITTEE ANNOUNCEMENTS

DATE: April 18, 1980

Prepared by the Chief Clerk's Office

	ROOM	TIME	TOPIC
COMMERCE 465-3834	ASMBLY 208	8:00 a.m. 4/18	Sunset legislation re: Alaska Public Utilities Commission  Will also consider other bills previously announced that have committee substitutes prepared
C&RA 465-3824	CAP 112	8:30 a.m. 4/18	HB 685 Regional housing authorities HB 698 Composition and representation/boroughs
FINANCE 465-3795	CAP. 519	1:30 p.m. 4/18	HB 648 Fire prevention HB 715 Supplapprop/Dept of Law HB 610 Spec.approp/Dept.Admin/older Ak/Programs HB 611 State aid SVC programs Older Alaskans HB 618 Establish Older Alaskans CMSN HB 710 Approp adjust/H&SS/Public Assistance
HESS 465-3797 3777	CAP. 112	1:30 p.m. 4/18	School construction
JUDICIARY 465-3718 3882	CAP. 124	3:00 p.m. 4/18	HB 399 Membership/Wood-Tikchik State Park Mgmt Council HB 1 Maximum length - Salmon Seine Vessels
LABOR & MGMT. 465-4981			
RESOURCES 465-3715 (Osterback) 465-3734 (Miles)	CAP. 118		TO BE ANNOUNCED
STATE AFF. 465-4964 4965	CAP. 102		NO MEETING
RULES 465-3764	CAP. 208		

Markets Bill  
Passed out  
Meeting  
Advised

# Alaska MUNICIPAL League

TELEPHONES  
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204 N. FRANKLIN ST.  
JUNEAU, ALASKA 99801

December 21, 1979

To: Elected Officials  
Administrators  
Attorneys  
Board of Directors  
Legislative Committee

From: Ginny Chitwood

Re: Borough Assembly Apportionment

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

cc: Senator Sturgulewski  
Representative Parker  
Representative Branson  
Jack Chenoweth

*T  
HB 648 re Apportionment  
Intro. Branson in House  
CRA. When it  
comes over this  
info. useful to.*

Letter to Leg. Comm.  
A.M.H.  
to Leg. Off.  
(1) appointment  
(2) planning -

CORRECTION

HCS CSSB 137 am H

Please discard all copies of the Bill and retain this corrected version.

I have a commitment re review  
re-appointment & impact  
sites in through able to  
get planning - DS M have

2955 copy  
Z  
1/2

ask Jimmie or Ron Pezous for  
letter of stating meaning } think interest in  
"dual majority" & not in  
"planning delegation"

Original sponsor: Rules/Governor

Offered: 4/27/79  
Referred: Rules

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 137 am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the municipal code; and providing  
7 for an effective date."

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

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

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

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

13 (b) The assembly of a newly incorporated borough is, after incor-  
14 poration and until the adoption of an ordinance providing for a change  
15 in composition or apportionment, composed of the number of members and  
16 apportioned as set out in the incorporation petition approved by the  
17 voters. If a borough is already incorporated, the assembly shall be  
18 composed and apportioned in a manner that is consistent with AS 29.23.-  
19 023 and prescribed by charter or ordinance.

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

21 Sec. 29.23.023. COMPOSITION AND REPRESENTATION REQUIREMENTS FOR  
22 GENERAL LAW BOROUGHES. (a) The borough assembly shall provide for its  
23 composition and for the form of its representation. Not later than  
24 July 31, 1981, and thereafter within four months after the report of  
25 a federal decennial census, the assembly shall propose and submit to  
26 the voters at a regular election or special election called for the  
27 purpose alternative forms of representation by which members are

- 28 (1) elected at large by all qualified voters of the borough;  
29 (2) elected at large by all qualified voters of the borough,

1 but required to live within an election district or zone established by  
2 the borough for election of assembly members, with each district or zone  
3 being of substantially equal population; or

4 (3) elected by and from election districts or zones estab-  
5 lished by the borough for the election of borough assembly members.

6 (b) The proposals set out in (a) of this section shall be sub-  
7 mitted to the voters. The vote on the proposals submitted to the  
8 voters shall be tabulated in two separate classifications. One  
9 classification shall consist of all votes cast in the first class and  
10 home rule cities in the borough. The other classification shall  
11 consist of all votes cast in the remaining area of the borough. The  
12 borough assembly shall, within three months of the certification of the  
13 results of the election, adopt an ordinance providing for its composi-  
14 tion and the form or representation which conforms to the form of  
15 representation receiving a plurality of the votes in each classification  
16 at that election.

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

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

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

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

1 ordinance for its reapportionment and may provide for a change in its  
2 composition whenever it determines, on the basis of federal census  
3 reports or other reliable population data, that the existing apportion-  
4 ment does not meet the standards for apportionment in AS 29.23.021. If  
5 a petition signed by not less than 50 borough voters requests the  
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 shall make the determination requested.

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

14 (e) Within four months of a determination by the assembly that the  
15 current apportionment does not meet the standards of AS 29.23.021 -  
16 29.23.025; the assembly shall adopt an ordinance providing for reappor-  
17 tionment, and submit the ordinance to the voters. If, at the end of the  
18 four month time period, an ordinance providing for reapportionment has  
19 not been approved, the Department of Community and Regional Affairs  
20 shall provide for the reapportionment in accordance with the standards  
21 of AS 29.23.021 - 29.23.023.

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

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

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

1 (3) AS 29.23.021; 29.23.025 - 29.23.050 (composition and  
2 apportionment of borough assembly; borough assembly recomposition and  
3 reapportionment; assembly representation)

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

5 (4) composition and apportionment of the assembly or council,  
6 but the number of members of a borough assembly may not exceed 11;

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

8 Sec. 29.23.040. REGULAR TERM OF OFFICE. Assemblymen are selected  
9 for three-year terms and until their successors are selected and have  
10 qualified, unless different terms not exceeding four years are pre-  
11 scribed by borough charter or ordinance. The regular term of office  
12 begins on the first Monday following certification of the election.

13 [HOWEVER, IF UNDER A BOROUGH APPORTIONMENT CITY COUNCILMEN ARE APPOINTED  
14 AS ASSEMBLYMEN OR ELECTED TO DUAL ASSEMBLY-COUNCIL SEATS, THEY MAY NOT  
15 BE REPLACED UNTIL THEIR ASSEMBLY TERM EXPIRES AS PROVIDED BY CITY CHAR-  
16 TER OR ORDINANCE, OR THEY CEASE TO BE A MEMBER OF EITHER THE ASSEMBLY OR  
17 COUNCIL.] The current term of incumbent assemblymen may not be altered  
18 under this section. This section applies to home rule and general law  
19 boroughs.

20 \* Sec. 5. AS 29.23.130(c) is amended to read:

21 (c) The borough mayor's regular term of office is three years and  
22 until a successor is elected and has qualified and begins on the first  
23 Monday following certification of the mayor's [HIS] election [, WHICH IS  
24 HELD THE FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT DATE OF ELECTION  
25 IS PROVIDED BY ORDINANCE]. The assembly may provide by ordinance for a  
26 different term not to exceed four years, except that the current term of  
27 an incumbent borough mayor may not be altered.

28 \* Sec. 6. AS 29.23.130(d) is amended to read:

29 (d) A borough may adopt or abandon a manager plan at any time, as

1 provided in AS 29.23.410 - 29.23.480. The borough mayor may not veto an  
2 ordinance or resolution calling for an election on this question. The  
3 manager has all the powers and duties of the borough mayor as chief  
4 administrative officer. [IF THE MANAGER PLAN IS ADOPTED, IT BECOMES  
5 EFFECTIVE FOLLOWING CERTIFICATION OF THE RESULTS OF THE FIRST REGULAR  
6 ELECTION OCCURRING AT LEAST SIX MONTHS AFTER ADOPTION OF THE PLAN.] The  
7 borough mayor then serves as borough executive.

8 \* Sec. 7. AS 29.23.200(c) is amended to read:

9 (c) Councilmen are selected [AN ELECTION IS HELD ANNUALLY ON THE  
10 FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT ELECTION DATE OR INTERVAL  
11 OF YEARS IS PROVIDED BY ORDINANCE, TO CHOOSE COUNCILMEN] for three-year  
12 terms and until their successors are elected and have qualified. The  
13 regular term of office begins on the first Monday following certifica-  
14 tion of the election. The council may provide by ordinance for differ-  
15 ent terms not to exceed four years, except that the current term of  
16 incumbent councilmen may not be altered.

17 \* Sec. 8. AS 29.23.210(a) is amended to read:

18 (a) The council shall meet at least once every month, unless  
19 otherwise provided by ordinance. Special meetings may be held on the  
20 call of the mayor or two councilmen upon not less than 24 hours written  
21 or oral notice communicated to each member. In an emergency, a special  
22 meeting called on less than 24 hours notice is a legal meeting if all  
23 members are present or there is a quorum and all absent members have  
24 waived in writing the required notice. A waiver may be made either  
25 before or after the time of the meeting. The waiver shall be attached  
26 to and made a part of the journal for that meeting.

27 \* Sec. 9. AS 29.23.250(c) is amended to read:

28 (c) The mayor of a second class city is elected by and from the  
29 council for a term of one year and until a successor is elected and

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1 has qualified [EQUAL IN LENGTH TO A COUNCILMAN'S TERM].

2 \* Sec. 10. AS 29.23.250(d) is amended to read:

3 (d) The mayor's regular term begins on the first Monday following  
4 certification of the mayor's [HIS] election [, WHICH IS HELD ON THE  
5 FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT DATE OF ELECTION IS PRO-  
6 VIDED BY ORDINANCE]. The council of a second class city shall meet on  
7 the first Monday after certification of the regular election [DATE] and  
8 elect a mayor who takes office immediately.

9 \* Sec. 11. AS 29.23.440(a) is amended to read:

10 (a) If the manager plan is approved, the assembly or council  
11 shall, within 60 days, adopt the plan by ordinance or resolution.

12 \* Sec. 12. AS 29.33.010(b) is amended to read:

13 (b) No city, whether home rule or not, may exercise an areawide  
14  power [CONFERRED IN, OR ASSUMED BY MEANS OF AS 29.33.250 - 29.33.290]  
15 once that power is being exercised by a borough.

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16 \* Sec. 13. AS 29.33.070(b)(2) and (3) are amended to read:

17 (2) delegate other planning and zoning powers conferred by  
18 this chapter [ADMINISTRATIVE AND ENFORCEMENT RESPONSIBILITIES] to a  
19 [THE] city within the borough [, PROVIDED THAT BOROUGH JURISDICTION IS  
20 NOT IMPAIRED];

21 (3) revoke or modify any part or all of the [WITHDRAW] powers  
22 delegated under this subsection.

23 \* Sec. 14. AS 29.33.110(a) is repealed and re-enacted to read:

24 (a) The assembly is the board of adjustment but may delegate by  
25 resolution or ordinance part or all of its functions to a city within  
26 the borough for the area within city boundaries in accordance with  
27 AS 29.33.070(b)(1), in addition to making delegations as provided for an  
28 assembly under AS 29.33.245. Meetings of the borough board are held at  
29 the call of the presiding officer and of the city board by the mayor.

1 The presiding officer or mayor may administer oaths and compel atten-  
2 dance of witnesses. Meetings and hearings of the board shall be open to  
3 the public and the board shall keep minutes of its proceedings as a  
4 public record.

5 \* Sec. 15. AS 29.33.190(a) is amended to read:

6 (a) The owner or agent of the owner of land located within a  
7 subdivision who transfers, sells, or enters into a contract to sell land  
8 in a subdivision before a plat of the subdivision has been prepared,  
9 approved, and recorded, is guilty of a misdemeanor and upon conviction  
10 is punishable by a fine of not more than \$500 for each lot or parcel  
11 transferred, sold, or included in a contract to be sold. The borough  
12 [PLATTING BOARD] may enjoin a transfer, sale, or contract to sell, and  
13 may recover the penalty by appropriate legal action.

14 \* Sec. 16. AS 29.48.180(a) is amended to read:

15 (a) Each ordinance [AND RESOLUTION] after adoption shall be codi-  
16 fied.

17 \* Sec. 17. AS 29.48.180(c)(2) is amended to read:

18 (2) the ordinance is a provision which establishes a rule of  
19 conduct or behavior and which is included, or to be included, in a code  
20 of ordinances or other complete system of [POSITIVE] law enacted [PRO-  
21 MULGATED BY THE COUNCIL] and kept current [BY THE CITY] at reasonable  
22 intervals.

23 \* Sec. 18. AS 29.48 is amended by adding a new section to read:

24 Sec. 29.48.185. RESOLUTIONS. The assembly or council shall pro-  
25 vide for the maintenance of a permanent file of resolutions that have  
26 been adopted.

27 \* Sec. 19. AS 29.48.200 is amended to read:

28 Sec. 29.48.200. PENALTIES. For the violation of an ordinance, the  
29 assembly or council may prescribe punishment not to exceed a fine of

1 \$500 or imprisonment for 30 days, or both. However, the punishment  
2 authorized under this section may be imposed only if [AN ORDINANCE IS  
3 CODIFIED AND] copies of the ordinance are made available for distri-  
4 bution to the public at cost.

5 \* Sec. 20. AS 29.58.200 is amended by adding new subsections to read:

6 (b) A municipality may issue its revenue bonds to finance the  
7 purchase of residential mortgage loans. The revenue bonds issued under  
8 this subsection are payable solely from the principal and interest of  
9 the mortgage loans and from any other amounts pledged by the municipal-  
10 ity, except the pledge of revenues derived from taxes. Revenue bonds  
11 issued under this subsection do not constitute a general obligation of  
12 the municipality.

13 (c) A municipality may also issue revenue bonds for a lawful  
14 purpose. The bonds shall be payable from any amounts pledged by the  
15 municipality except taxes and shall not constitute general obligations  
16 of the municipality.

17 \* Sec. 21. AS 29.58.210 is amended to read:

18 Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall  
19 fix the date of the bonds, denominations, maturities, rate or rates of  
20 interest, place and manner of payment, redemption terms, registration  
21 privileges, manner of execution, [AND] signatures required, and other  
22 details of the bonds. If an officer whose signature appears on the  
23 bonds or coupons ceases to be an officer before delivery of the bonds,  
24 his signature is valid as if he had remained in office until delivery.

25 \* Sec. 22. AS 29.58.220 is amended to read:

26 Sec. 29.58.220. PAYMENT. Bonds issued under AS 29.58.200 -  
27 29.58.220 or the proceedings of the assembly or council authorizing  
28 their issuance may contain the covenants which the assembly or council  
29 considers advisable concerning

1 (1) the rates or fees to be charged for services rendered by  
2 the public facilities, the revenue of which is pledged to the payment of  
3 the bonds, or the terms and conditions of any other amounts collected  
4 which are pledged to the payment of the bonds;

5 (2) the deposit and use of the revenue of the public facili-  
6 ties or of other amounts collected which are pledged to the payment of  
7 the bonds;

8 (3) the issuance of additional bonds payable from revenue of  
9 the public facilities or of other amounts collected which are pledged  
10 to the payment of the bonds;

11 (4) the rights of the bondholders in case of default in the  
12 payment of the principal or interest on the bonds, including the appoint-  
13 ment of a receiver to opera'e the public facilities;

14 (5) other covenants as the assembly or council determines."

15 \* Sec. 23. AS 29.63.065(b)(2) is amended to read:

16 (2) a claimant receiving the exemption must file with the  
17 department by March [JANUARY] 15 of each subsequent year a separate  
18 application proving eligibility as of January 1 in order to retain the  
19 exemption. Within the same year the department [THE ASSEMBLY OR COUNCIL  
20 for good cause shown may waive the claimant's failure to make timely  
21 application and approve the application as if timely filed.

22 \* Sec. 24. AS 29.23.020 is repealed.

23 \* Sec. 25. AS 29.59 is repealed.

24 \* Sec. 26. Notwithstanding AS 29.23.040, ame ded by sec. 4 of this Act,  
25 the terms of office of borough assemblymen elected or appointed to dual  
26 borough assembly - city council seats are not affected by the amendment made  
27 to AS 29.25.040 in sec. 4 of this Act until reapportionment of the borough  
28 assembly is required or proposed under AS 29.23.020, repealed by sec. 21 of  
29 this Act, or is effected as required or proposed under AS 29.23.021 - 29.23.-

1 025, added by sec. 1 of this Act.

2 \* Sec. 27. Sections 1 - 3 and 24 of this Act take effect January 1, 1981.  
3 Sections 4 - 23, 25 and 26 of this Act take effect immediately in accordance  
4 with AS 01.10.070(c).

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Article 4. Planning, Platting and Zoning.

Section

70. Planning, platting and zoning

90. Zoning

Sec. 29.33.070. Planning, platting and zoning. (a) First and second class boroughs shall provide for planning, platting and zoning on an areawide basis.

(b) The assembly by ordinance may

(1) designate the council of a city within the borough as a board of adjustment within the city;

(2) delegate other planning and zoning administrative and enforcement responsibilities to the city, provided that borough jurisdiction is not impaired;

(3) withdraw powers delegated under this subsection. (§ 2 ch 118 SLA 1972; am § 1 ch 17 SLA 1977; am § 7 ch 93 SLA 1977)

Effect of amendments. — The first 1977 amendment, in subsection (b) deleted "If a city within a borough is located more than 25 miles from a boundary of the borough seat" from the beginning of the introductory language and substituted "a city within the borough" for "the city" in paragraph (1).

The second 1977 amendment substituted "First and second class boroughs" for "Boroughs" at the beginning of subsection (a).

Cited in Moore v. State, Sup. Ct. Op. No. 1284 (File Nos. 2551, 2587), 553 P.2d 8 (1976).

Sec. 29.33.090. Zoning. (a) In accordance with the comprehensive plan, the assembly shall regulate and restrict the use of land and improvements by districts or contract zoning to permit specific uses provided for in the contract. Regulations shall be uniform for each class or kind of building, structure, land or water area within each district, but the regulations may differ among districts and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments. In this section, "contract zoning" means a zoning reclassification to a less restricted use when the owner of the rezoned property, either through an agreement with the assembly or a covenant in favor of the borough, places restrictions on the use of the land beyond the zoning requirements generally attaching to the new district in which the property has been placed. The assembly shall hold a public hearing on the proposed contract zoning.

(d) The assembly shall regulate and restrict the use of state land within the borough which is vacant, unappropriated and unreserved and which is found suitable for classification and disposal for homesite entry under AS 38.08.010. Compliance with the provisions of this subsection is a prerequisite to issuance of homesite entry permits for land within the borough.

(am § 1 ch 104 SLA 1974; am § 3 ch 142 SLA 1977)

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AN ACT

Relating to the composition and apportionment of borough assemblies; and providing for an effective date.

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

Section 1: AS 29.23.021, AS 29.23.023, AS 29.23.025 are repealed.

Section 2: AS 29.23 is amended by adding new sections to read:

Sec. 29.23.021. ASSEMBLY COMPOSITION AND APPORTIONMENT.

- (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 a borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with this chapter and prescribed by charter or ordinance.
- (c) All assembly members shall have an equal vote with each other on all matters. Weighted or fractioned voting is prohibited.

Sec. 29.23.023. COMPOSITION AND REPRESENTATION.

- (a) After the report of the 1980 Federal Decennial Census and not later than July 31, 1981, the assembly shall adopt a resolution selecting one of the following forms of representation:

1. members to be elected at large by all qualified voters of the borough;
2. members to be elected at large by all qualified voters of the borough, but required to live within an election district or zone to be thereafter established by the borough for election of assembly members, with each district or zone being of substantially equal population; or
3. members to be elected by and from election districts or zones to be thereafter established by the borough for the election of borough assembly members, with each district or zone being of substantially equal population; or
4. members to be elected by a specified combination of any of the above three forms as specified and set forth in the resolution.

(b) If the assembly fails to adopt such a resolution within the time specified the Department of Community and Regional Affairs shall be notified promptly and shall select the form of representation to be submitted to the voters for their approval under subsection (c) in the same manner as if it had been selected by the assembly.

(c) The form which is selected by the assembly shall be submitted to the voters for their approval at a regular election or special election called for that purpose within four months of the resolution. The vote on the proposal shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities in the borough. The other classification shall consist of all votes cast in the remaining area of the borough. To be approved the proposed form of representation must be accepted by an affirmative vote of a majority of the qualified voters who vote on the question of approval in each classification at that election.

- (d) If the form of representation selected by the assembly fails to be approved by the voters the assembly may select from among the other forms of representation and hold additional elections to seek the approval of the voters. Within four months of the certification of the results of the first election if a form of representation has not been approved, the Department of Community and Regional Affairs shall be promptly notified and shall select, within one month thereof, the form of representation to be implemented by the assembly. The Department shall notify the borough assembly of its selection at which time the assembly shall begin to implement this form of representation. Whether approved at an election or selected by the Department of Community and Regional Affairs the borough assembly shall implement that form of representation in the manner and according to the time limits provided in (e).
- (e) If the form of representation approved or selected by the Department of Community and Regional Affairs is one by which assembly members are to be elected at large by all qualified voters of the borough, the borough assembly shall have two months from the date of certification of the results of the election or of notification of the selection by the Department of Community and Regional Affairs to devise and adopt an ordinance implementing that form of representation. If any other form or combination of forms of representation is approved or selected, the borough assembly shall have six months thereafter to devise and adopt an ordinance implementing such a form of representation. If the assembly does not adopt such an ordinance within the time specified the Department of Community and Regional Affairs shall devise such an ordinance within six months which shall then be adopted by the assembly.

- (f) The provisions of the ordinance shall become applicable at an election to be held not later than six (6) months following the adoption of the ordinance. At such election all assembly positions shall be up for election. The borough assembly members elected at this election shall determine by lot the length of their term of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.
- (g) The borough assembly may change its form of representation by the procedures described in this section at such other times as it deems appropriate. The borough assembly may change the number of members of assembly by ordinance at such times as it deems appropriate. If this change affects the apportionment of the assembly it shall be accomplished according to the procedures provided for reapportionment in AS 29.23.025.
- (h) A member of the assembly of a general law borough shall be elected directly by the voters to that position. A member shall not hold such position by virtue of appointment or election by the council of a city within the borough, except until the new assembly members elected at the first election held under the ordinance enacted according to subsections (a) through (f) of this section are sworn-in to office. This shall not prohibit nor preclude a member of the council of a city in the borough from being eligible for election as, and serving as a member of the assembly of that borough if so elected, nor a member of the assembly of a borough from being eligible for election as and serving as a member of the council of a city within that borough if so elected.

Sec. 29.23.025. ASSEMBLY REAPPORTIONMENT.

- (a) Not later than July 31, 1981, and thereafter within two months after the official report of a Federal Decennial

with the applicable standards of AS 29.23.021. At the same time the assembly may alter its form of representation or composition.

(e) If the assembly chooses to alter the existing form of representation it shall do so according to the procedures and within the time limits described in AS 29.23.023 while concurrently effectuating the necessary change in its apportionment.

(f) If the reapportionment is to be accomplished without a change in the form of representation then the assembly shall have six (6) months to devise and adopt an ordinance which implements proper apportionment complying with the standards of AS 29.23.021. If the assembly does not adopt such an ordinance within the time specified the Department of Community and Regional Affairs shall be notified immediately and shall devise such an ordinance to accomplish proper reapportionment within six (6) months. That ordinance shall then be adopted by the assembly.

(g) The provisions of the ordinance shall become applicable at an election to be held not later than six (6) months following the adoption of the ordinance. At such election all assembly positions shall be available for election. The borough assembly members elected at this election shall determine by lot the length of their term of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

Section 3: Section 2 of this Act shall take effect on January 1, 1981. Section 1 of this Act shall take effect immediately in accordance with AS 01.10.070(c).

Census, the assembly shall determine and declare by resolution whether the existing apportionment of the assembly meets the applicable standards of AS 29.23.021. If it is determined that the existing apportionment of the assembly does not meet the applicable standards of AS 29.23.021, the assembly shall provide by ordinance for its reapportionment.

- (b) The assembly shall also determine and declare by resolution whether the existing apportionment of the assembly meets the applicable standards of AS 29.23.021 within two months after being presented with evidence indicating that it does not so comply. This evidence may be presented in either of two ways. It may be presented at the initiative of the assembly or accompanying a petition which is filed with the assembly requesting such a determination. The petition must be signed by not less than fifty registered and qualified voters of the borough. The evidence presented must be based on federal census reports or other reliable population data which has been certified prior to presentation, as reliable by the Department of Community and Regional Affairs.
- (c) A reapportionment moratorium shall exist for two years after the adoption of a resolution by the assembly determining that the existing apportionment does meet the applicable standards of AS 29.23.021 or after the adoption of an ordinance implementing a change in apportionment. During this period the assembly shall not accept or consider any petitions for reapportionment as described in (b), although this shall not limit or prevent reapportionment by any other methods.
- (d) Upon the adoption of a resolution by the assembly declaring the existing apportionment to be improper, the assembly shall devise a new apportionment to comply

with the applicable standards of AS 29.23.021. At the same time the assembly may alter its form of representation or composition.

(e) If the assembly chooses to alter the existing form of representation it shall do so according to the procedures and within the time limits described in AS 29.23.023 while concurrently effectuating the necessary change in its apportionment.

(f) If the reapportionment is to be accomplished without a change in the form of representation then the assembly shall have six (6) months to devise and adopt an ordinance which implements proper apportionment complying with the standards of AS 29.23.021. If the assembly does not adopt such an ordinance within the time specified the Department of Community and Regional Affairs shall be notified immediately and shall devise such an ordinance to accomplish proper reapportionment within six (6) months. That ordinance shall then be adopted by the assembly.

(g) The provisions of the ordinance shall become applicable at an election to be held not later than six (6) months following the adoption of the ordinance. At such election all assembly positions shall be available for election. The borough assembly members elected at this election shall determine by lot the length of their term of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

Section 3: Section 2 of this Act shall take effect on January 1, 1981. Section 1 of this Act shall take effect immediately in accordance with AS 01.10.070(c).