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COMMITTEE REPORT

HOUSE

FURTHER:

4/3/81

(7)

Date: 4/15/81

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 674

"An Act relating to appropriations and grants from boroughs to service areas and cities; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf
Chairman
465-3870

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - HB 474 by Malone

"An Act relating to appropriations and grants from boroughs to service areas and cities; and providing for an effective date."

This bill adds a new section to AS 29.73 (Municipal Gov't-Misc. Provisions)

Under revenue sharing grants by boroughs, a home rule or general law borough may make grants from areawide taxes or other areawide revenues to a city within the borough or to a service area of the borough to finance a function the city or service area is authorized by law to perform, if the power to use areawide taxes or other areawide revenues for the grants to cities or service areas is acquired in an areawide election on that question.

The new subsection 29.63.090(b) states that the assembly may, by ordinance, appropriate money from areawide taxes or other areawide revenues to finance all or part of the special services, if the power to finance the special services from those revenue sources is acquired in an areawide election on the question.

The bill amends the appropriate statutes in Title 29 relating to home rule powers (29.13.100), powers to municipalities (29.48.210) and general property taxes relating to the authorization of appropriations and grants.

The bill provides for an immediate effective date.

Article 2. Home Rule Limitations.

Section

29.13.100. Limitation of home rule powers

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

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

(3) [Effective January 1, 1981] AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 — 29.23.050 (borough assembly members)

(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)

(40) AS 29.23.060(c) (expulsion of borough assemblyman)

(41) AS 29.23.130(f) (removal of borough mayor from office)

(42) AS 29.23.210(b) (expulsion of city councilman from office)

(43) AS 29.23.255 (removal of mayor from office)

(44) AS 29.28.050(f) (expulsion, removal from office)

(45) AS 29.73.070 (taxpayer notice)

(46) AS 29.88 (municipal tax resource equalization assistance)

(47) AS 29.89 (state aid for miscellaneous municipal services).

(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; am § 208 ch 100 SLA 1980; am § 1 ch 128 SLA 1980; am § 10 ch 155 SLA 1980)

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) as it existed prior to the first 1979 amendment.

The 1974 amendment added paragraph (35)

The 1975 amendment added paragraph (36)

The 1976 amendment substituted "AS 29.58.345" for "AS 29.58.348" at the beginning of paragraph (35)

The 1977 amendment added paragraph (37)

... is said of discrimination by authority against a whole of persons who are lawfully re- as proper subjects for police regulation, such as persons without occupation or visible means of support. *Guidoni v. Wheeler*, 230 F. 93 (9th Cir. 1916).

§ 29.48.210. Expenditure of borough revenues. Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Revenues levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. (§ 2 ch 118 SLA 1972)

§ 29.48.220. Post audit. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities. (§ 2 ch 118 SLA 1972)

Article 4. Miscellaneous Provisions.

Section	Section
270. Centralized purchasing	270. Emergency disaster powers
271. Municipal properties	

§ 29.48.250. Centralized purchasing. The assembly or council may provide for centralized purchasing, storage and distribution of supplies, material and equipment for the municipality and its departments. (§ 2 ch 118 SLA 1972)

§ 29.48.260. Municipal properties. (a) A municipality may acquire and hold real and personal property or interest in property, and may sell, lease or otherwise dispose of property no longer required for municipal purposes.

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease, donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly it is advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor. (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that

Title 31
Oil and Gas

Title 32
Partnership

Title 33
Probation, Prisons,
And Prisoners

Title 34
Navigation, Harbors
and Shipping

Title 35
Public Buildings, Streets,
and Improvements

Title 36
Public Lands

Title 37
Public Power

§ 29.53.20. Extent of powers. Unless otherwise limited by boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incidental to the object or purpose of all powers and functions conferred in this title. (§ 2 ch 118 SLA 1972)

§ 29.53.20 may exercise implied authority in police control where the exercise of municipal life seem to require more rigid regulation than is required in the state at large. *Guidoni v. Wheeler*, 230 F. 98 (9th Cir. 1916).

§ 29.53.30. Enumeration of powers. Specific examples with- enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function. (§ 2 ch 118 SLA 1972)

Chapter 53. Municipal Assessment and Taxation.

- 1 Municipal Property Tax (§§ 29.53.010—29.53.180)
- 2 Assessment of Tax Liens (§§ 29.53.200—29.53.300)
- 3 City Property Tax (§§ 29.53.400—29.53.410)
- 4 Market Sales and Use Taxes (§§ 29.53.415—29.53.420)
- 5 City Sales and Use Taxes (§§ 29.53.440—29.53.460)

Article 1. Municipal Property Tax.

Section	Section
90. General property tax	90. Statement
95. Required exemptions	95. Revaluation
100. Special exemptions and exclusions	100. Assessment roll
110. Mining claims	110. Assessment notice
120. Farm or agricultural lands	120. Corrections
130. Mobile homes	130. Appeal
135. Tax limitation	135. Board of equalization
140. Tax limitation on taxes to pay bonds	140. Hearing
150. Full and true value	150. Supplementary assessment rolls
160. Appeals	160. Tax adjustments on property affected by a natural disaster
170. Independent investigation	170. Tax levy and rate
	180. Rates of penalty and interest

§ 29.53.010. General property tax. Home rule and general law boroughs may levy (1) an areawide property tax for areawide boroughs, and (2) a property tax limited to the area outside cities or functions limited to the area outside cities. A property tax if levied must be assessed, levied and collected on real and personal property as provided in this chapter. (§ 2 ch 118 SLA 1972)

Taxation of personal property of Town of Fairbanks v. Independent Meat Mkt., 4 Alaska 147 (1910).

Title 31
Oil and Gas

Title 32
Partnership

Title 33
Probation, Prisons,
and Prisoners

Title 34
Property Assessment
Navigation, Harbors
and Shipping

exempted to the extent of the assessment against the property exempted. Upon recordation in the recording office of the district in which the property exempted is located the lien is prior and superior to other liens against the property except for general taxes or other special assessments and may be enforced by lien foreclosure as provided in AS 34.10.070 — 34.10.220. The lien becomes immediately due and payable

(1) upon sale or other transfer of the property except to a spouse, widow, widower, or minor heir; however, if the property is transferred to a minor heir the lien becomes due and payable on the date the minor heir reaches the age of 25 years; or

(2) when property exempted under (a)(1) or (2) of this section receives more than one sewer connection or more than one water connection; or

(3) when the claimant fails to prove eligibility under (b)(2) of this section.

(d) In this section

(1) "resident" means a person who for 12 consecutive months has maintained his permanent place of abode in the state;

(2) "real property" includes, but is not limited to, mobile homes, whether classified as real or personal property for municipal tax purposes.

(3) "minor heir" means a person who, at the time of transfer of the property, has not attained the age of 19 years or who, if he has not attained the age of 22 years, is a full-time student at an educational institution or a member of the armed forces of the United States. (§ 1 ch 114 SLA 1975; am § 1 ch 215 SLA 1976; am § 23 ch 83 SLA 1979)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1979 amendment, in paragraph (2) of subsection (b), substituted "with the department by March 15" for "by January 15" in the first sentence and "the

department" for "the assembly or council" in the second sentence.

Editor's note. — Alaska Statutes 34.10.070 — 34.10.220, referred to in the introductory paragraph of subsection (c), were repealed by § 20, ch. 182, SLA 1978.

Article 2. Service Areas.

Section

10. Service areas

Sec. 29.63.090. Service areas. (a) Service areas to provide special services within a borough may be established, operated, altered or abolished by the assembly by ordinance. Special services include services not provided on an areawide basis within the borough or the borough area outside cities or a higher or different level of service than that provided on an areawide basis or in the borough area outside cities. In a first class borough the assembly may exercise within a service area any power granted a first class city by general law. Except

as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the qualified voters residing within the service area and voting on the question at a regular or special election.

(f) A second class borough may establish a service area by ordinance which may include only vacant, unappropriated and unreserved land owned by the municipality. A second class borough may establish a service area, with the concurrence of the commissioner of natural resources, which may include only vacant, unappropriated and unreserved land owned by the state and classified for disposal to individuals. A second class borough may provide those services in a service area established under this subsection necessary to develop state or municipal land as required by the planning and platting ordinances of the borough. Exercise of the powers authorized by this subsection shall be by ordinance.

(am §§ 9, 10 ch 85 SLA 1979)

Effect of amendment. — The 1979 amendment divided the former third sentence of subsection (a) into the present third and fourth sentences, substituted the language beginning "Except as provided in (f) of this section" and ending "by general law but the exercise of the powers"

for "in a second class borough an exercise of the powers" in the present fourth sentence of subsection (a), and added subsection (f).

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

Chapter 68. Alteration of Boundaries.

Article

1. Annexation and Exclusion (§§ 29.68.010 — 29.68.030)

Article I. Annexation and Exclusion.

Section

20. Annexation of military reservations

Sec. 29.68.010. Local boundary commission.

Cross reference. — For further provisions relating to local boundary commission procedures, see AS 44.19.250 — 44.19.340. For requirements of a hearing on local boundary changes, see AS 44.19.330.

The local action provision of Alaska Const., art. X, § 12 has been implemented by this section and by 19 AAC § 15.010 et seq. *Port Valdez Co v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 822 P.2d 1147 (1974).

Sec. 29.68.020. Annexation of military reservations. A military reservation may be annexed to a city or borough in the same manner as prescribed for any other territory under AS 29.68.010. If a city within an organized borough annexes a military reservation under this section, the territory encompassing the military reservation

automatically is annexed to the borough. See ch 32 SLA 1973; am § 8 ch 7

Cross reference. — For further provisions relating to local boundary commission procedures, see AS 44.19.250 — 44.19.440. For requirement of a hearing on local boundary changes, see AS 44.19.330.

Effect of amendment. — The

Article 3. Unification

Section

350. Charter preparation

Sec. 29.68.280. Call for charter

Procedures apply to determination of method of district representation. The detailed statutory procedures prescribed for unification of boroughs and municipalities continue to apply to determination of the method of district representation.

Sec. 29.68.310. Composition

Anchorage Charter Commission. presently organized, is a valid public body authorized to proceed with statutory functions under this article. *Jordan v. Reed*, Sup. Ct. Op. No. 1217 (File No. 2586), 544 P.2d 78 (1975).

Residents of temporarily-existing borough not unconstitutionally denied right to vote in charter commission election. — Where the Eagle River-Chugiak Borough was officially incorporated on September 12, 1974, the act authorizing the residents of the area to vote on the question of whether to form a second class borough is not unconstitutional in *Ahrms v. State*, Sup. Ct. Op. No. 1163 (File No. 24118), 534 P.2d 91 (1975) on April 1, 1975, and the Eagle River-Chugiak area was automatically reincorporated in the Greater Anchorage Area Borough. The Eagle River-Chugiak area residents were not unconstitutionally denied the right to vote in a February 11, 1975 election held in the Greater Anchorage Area Borough which the creation of a charter commission was approved, and its members elected. *Jordan v. Reed*, Sup. Ct. Op. No. 1217 (File No. 2586), 544 P.2d 78 (1975).

Sec. 29.68.360. Public hearings.

Applied in Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

Sec. 29.68.390. Election on charter.

Cited in Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

Chapter 73. Miscellaneous Provisions.

Section

- 60. Property tax equivalency payments
- 70. Taxpayer notice

Sec. 29.73.060. Property tax equivalency payments. (a) A resident of the state 65 years of age or older who rents a permanent place of abode is eligible for tax equivalency payments from the state through the Department of Community and Regional Affairs.

(b) For purposes of determining payments to eligible persons, the department shall calculate a property tax equivalent percentage for each home rule or general law municipality which levies a general property tax at the rate of one percent per mil. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain tax equivalency payments the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for tax equivalency payments under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, tax equivalency payments to an eligible applicant may not be reduced because the spouse is less than 65 years of age. If all occupants in a residence are eligible for tax equivalency payments under this section, the occupants shall decide between and among themselves which shall receive payment. (§ 2 ch 217 SLA 1976; am § 1 ch 124 SLA 1980)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, and retroactive to January 1, 1980, inserted a comma following "municipality" and "general property tax", substituted "one" for "to", substituted "The property tax

equivalent" for "This", substituted and added "payable under this section", and "equals" for "or §375, whichever is less is", in subsection (b).

Sec. 29.73.070. Taxpayer notice. (a) If a municipality levies and collects real or personal property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER

For the current fiscal year the (city) (borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE (AS 14.17)	§
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)	§
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE (AS 29.88)	§
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.89)	§
TOTAL AID	§

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

	MILLAGE EQUIVALENT	
	PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	.... MILLS	.... MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	.... MILLS	.... MILLS
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	.... MILLS	.... MILLS
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES	.... MILLS	.... MILLS
TOTAL MILLAGE EQUIVALENT	.... MILLS	.... MILLS

Notice shall be provided

(1) by furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or

(2) by publishing in a newspaper of general circulation within the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget.

(b) If the municipality levies a governing body shall provide a notice in (a) of this section. In providing council or assembly shall substitute estimate of the equivalent sales tax financial assistance set out in (a) provide:

(1) by publishing in a newspaper municipality a copy of the notice on successive weeks, with publication to the final adoption of the municipal

(2) if there is no newspaper municipality, by posting a copy of the least two public places within the municipality not later than 45 days after the final budget.

(c) Compliance with the provisions receipt of municipal tax resource equalization assistance under AS 29.88 and state aid for miscellaneous municipal services under AS 29.89. The Department of Community Development shall withhold annual allocations under this section if the municipality officials demonstrate that the requirement is not met. (§ 9 ch 155 SLA 1980)

Effective date. — Section 17, ch. 155, SLA 1980, provides that §§ 1 — 12 (including this section) of the act take effect on the first day of the fiscal year for which \$33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act, or on July 1, 1983, whichever is earlier. A total of \$33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in §§ 81 and 82, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's note. — Section 12, ch. 155, SLA 1980, effective on the same day as AS 29.73.070, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than \$25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88, added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 474

Title "... appropriations and grants from boroughs to service areas and cities..."

Requested by Rep. Grussendorf's aide Date April 13, 1981

II. FISCAL DETAIL

Agency Affected Community and Regional Affairs

Program Category Affected None

BRU, Program, or Subprogram(s) Affected None

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

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

Local fiscal impact, if any, would be minimal.

IV. DATE April 14, 1981

PREPARED BY Michael H. Worley, Assistant State Assessor
AGENCY Community & Regional Affairs
PHONE 465-4787

Original: Legislative Finance
cc: Budget and Management