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COMMITTEE REPORT

HOUSE

2/4/81

FURTHER:

(5)

Date: March 23 1981

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 87

"An Act allowing municipalities to exempt land from property taxes for a fire service district; and providing for an effective date."

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

- do pass do not pass
- do pass with attached amendment(s)
- replace with CS for HB 87 same title
 new title
- and recommends passage with substitute recommendation
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

J. S. Fuller
W. L. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

...
...

CHAIRMAN

Introduced: 2/4/81
Referred: Community & Regional
Affairs

1 IN THE HOUSE

BY BROWN

2 HOUSE BILL NO. 87

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act allowing municipalities to exempt land from
7 property taxes for a fire service district, and pro-
8 viding for an effective date."

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

10 * Section 1. AS 29.13.100(22) is amended to read:

11 (22) AS 29.53.010 - 29.53.405 [AS 29.53.010 - 29.53.400]

12 (borough and city property taxes)

13 * Sec. 2. AS 29.13.100(36) is amended to read:

14 (36) AS 29.63.065 - 29.63.066 [AS 29.63.065] (exemption from
15 special assessment)

16 * Sec. 3. AS 29.53.405 is amended by adding a new subsection to read:

17 (b) If a tax under this section is for a fire service district
18 city may exempt land and levy the tax only on improvements, including
19 personal property affixed to the improvements. Notwithstanding AS 29.-
20 53.210(b), (a real property tax levied on improvements under this sub-
21 section is not a lien upon the property assessed.)

22 * Sec. 4. AS 29.63 is amended by adding a new section to read:

23 Sec. 29.63.066. OPTIONAL EXEMPTION. If an assessment under this
24 chapter is for a fire service district, a municipality may exempt land
25 and levy the assessment only on improvements, including personal prop-
26 erty affixed to the improvements. Notwithstanding AS 29.63.060(d), an
27 assessment levied on improvements under this section is not a lien upon
28 the property assessed.

29 * Sec. 5. This Act takes effect January 1, 1982.

th delinquent taxes assessed and
d in private ownership.

right of redemption there is no
d for, or devoted to, a public pur-

Sup. Ct. Op. No. 269 (File No. AG
396 P.2d 68 (1954))

sale. Upon sale of foreclosed real
or city shall divide the proceeds
borough and the city having the
he division is in proportion to the
the property at the time of fore-

upon public utilization. If a city
p tax-foreclosed property for a
shall satisfy unpaid taxes and
eld by other municipalities, with
lty. If the amount required in
ments exceeds the assessed val-
orough shall pay the other
which shall be divided between
on to their respective taxes and
l the time of foreclosure. (§ 2

(a) If a taxpayer pays tax
the superior court against the
judgment for recovery is given
shall refund the amount of the
t eight per cent from the date

y imposed, a remittance by a
exceeds the amount due, and
in question, is satisfied the
and the excess to the taxpayer
he date of payment. A check
e due date of the tax is for

erty Tax.

ion

Limited property taxing power
for second class cities

rule and first class cities
property tax. A property tax

levied, shall be levied in the manner provided for borough levies
in § 170(a) of this chapter and is subject to §§ 10—25, 50—55 and
50—55 of this chapter. The council shall by June 15 of each year
present to the borough assembly a statement of the city's rate of
levy, unless a different date is agreed upon by the borough and city.
(§ 2 ch 118 SLA 1972; am § 5 ch 147 SLA 1972)

Effect of amendment. — The 1972 amendment, effective September 10, 1972, in the second sentence, inserted "shall be levied in the manner provided for borough levies in § 170(a) of this chapter and," inserted "10—25," and inserted "55."

Sec. 29.53.405. Differential tax zones. Cities may by ordinance establish, alter and abolish differential tax zones to provide and levy property taxes for services not provided generally within the city or a different level of service than that provided generally within the city. (§ 2 ch 118 SLA 1972)

Sec. 29.53.410. Limited property taxing power for second class cities. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments. (§ 2 ch 118 SLA 1972)

Article 4. Borough Sales and Use Taxes.

Section

41. Sales and use tax

42. Referendum, adoption and modification

Sec. 29.53.415. Sales and use tax. (a) A borough may levy and collect a sales tax not exceeding three per cent on sales or rents, or on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

Sec. 29.53.210. Tax liability. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest may be collected in a personal action brought in the name of the borough.

(b) Real property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property. (§ 2 ch 118 SLA 1972)

The remedies for enforcing tax collection are given in this section and AS 29.53.220. *City of Anchorage v. Campbell*, 13 Alaska 739, 105 F. Supp. 607 (D. Alas. 1952).

Taxes are not a lien unless expressly made so by statute, and when expressly created, the lien is not to be enlarged by construction. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Personal action may be brought.—Where a method of collecting taxes provided by statute is not exclusive, and does not provide an effective remedy, a personal action may be brought. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

Personal actions to collect taxes limited to taxes assessed against individuals.—The rule that in the absence of statutory provision a personal action lies for the enforcement of the collection of a tax, is limited to taxes assessed against individuals. *City of Yakutat v. Libby, McNeill & Libby*, 13 Alaska 378, 98 F. Supp. 1011 (D. Alas. 1951).

Sec. 29.53.220. Enforcement of personal property tax liens by distraint and sale. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly may provide the procedure for distraint and sale by or through seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made in virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. (§ 2 ch 118 SLA 1972)

And a tax on real property creates no personal liability for the payment of which a judgment in personam may be obtained. *City of Yakutat v. Libby, McNeill & Libby*, 13 Alaska 378, 98 F. Supp. 1011 (D. Alas. 1951).

Lien may be enforced only against assessed property.—The remedy provided by this article is available only to enforce the lien of real property taxes against the realty assessed. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Real and personal property may not be sold to satisfy taxes on both as lump sum.—Where the court ordered both real and personal property sold as an entirety to satisfy taxes, penalty and interest due on both classes in a single, lump sum, the court erred. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Am. Jur. and ALR references.—Am. Jur., Taxation, § 1010 et seq.

Statutes impairing or postponing lien for taxes, 53 ALR 1184; 134 ALR 328.

Sec. 29.53.230. Real property tax enforcement. Real property taxes may be enforced against delinquent taxpayers, unless otherwise provided.

(b) If the tax on property is a leasehold interest in the borough may enforce against delinquent taxpayer through distraint to other remedies. (§ 2 ch 118 SLA 1972)

Design.—This section and others setting forth the procedure for enforcing tax liens on real property were plainly geared to real property, if not solely, with respect to improvements, and do not result from a reading of the statute that they were not designed for foreclosure and sale of interests in real property, such as leasehold interests. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

Personal action may be brought.—Where a method of collecting taxes provided by statute is not exclusive, and does not provide an effective remedy, a personal action may be brought. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

A tax on real property creates a lien.

Sec. 29.53.240. Foreclosure.

(1) annually present a copy of the foreclosure list to the superior court for publication.

(2) publish the foreclosure list in a newspaper of general circulation. If there is no newspaper in the borough, post the list for 15 days;

(3) within 10 days after the last known owner of the property appears on the list a notice which a petition for judgment describing the property and the amount due.

(b) The list shall be in the same name and shall include:

- (1) the last known owner of the property;
- (2) the property described;
- (3) years and amounts.

Title 29 Municipal Government

(c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than 15 days before the hearing. (§ 2 ch 118 SLA 1972)

Right to object may be waived.— A party may be held to have waived all right to a remedy by a course of conduct which renders it unjust and inequitable to others that he should be allowed to complain of the illegality. In re Ketchikan Delinquent Tax Roll, 6 Alaska 653 (1922).

Am. Jur. and ALR references— Am. Jur., Special or Local Assessments, § 57 et seq.

Assessment by front-foot rule— ALR 941.

Classification of streets as to source of payment for improvements— 127 ALR 1090.

Sec. 29.63.050. Hearing and settlement. After the public hearing, the assembly or council shall correct errors and any inequities in the roll. When the roll is corrected, the clerk shall so certify. (§ 2 ch 118 SLA 1972)

Sec. 29.63.060. Payment. (a) The assembly or council shall fix the times of payment, rate of interest on unpaid installments, and delinquency of assessments. Payment may not be required more than 60 days after assessment. Payment may be in one sum or by installments, but a sum or installment may not exceed 25 per cent of the assessed value of the property affected. Penalty and interest are the same as for real property taxes.

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, the time of delinquency, and penalties.

(c) Within five days after the statements are mailed, the clerk shall publish notice that the statements have been mailed.

(d) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.53.200—29.53.390 for enforcement of property tax liens. (§ 2 ch 118 SLA 1972)

Property must be described with certainty.—To create a lien on real estate, the property must be described with reasonable certainty, sufficient for identification. In re Ketchikan Delinquent Tax Roll, 6 Alaska 653 (1922).

Am. Jur., ALR and C.J.S. references.—39 Am. Jur., Notice and Notices, § 27; 48 Am. Jur., Special or Local Assessments, § 194 et seq.

Priority as between liens for improvements, 5 ALR 1301; 19 ALR 1478.

Transfer or assignment of bonds— ALR 667.

Priority of lien for improvements and pre-existing contractual liens— ALR 613.

Duration of lien, 114 ALR 286; 63 C.J.S. Municipal Corporations § 1564 et seq.

Sec. 29.63.070. Reassessment. (a) The assembly or council shall within one year correct any deficiency in a special assessment made by a court.

(b) Notice and hearing must conform to the initial assessment procedures.

(a) Payments on the initial special reassessment.

(1) The reassessment becomes binding on failure to comply with procedure. (§ 2 ch 118 SLA 1972 reference.—63 C.J.S. Municipal Corporations § 1541 et seq.)

Sec. 29.63.080. Objection and hearing. Objection to an assessment may not be made with the municipal clerk until the roll before its confirmation.

(3) The decision of the assessor may be appealed to the superior court. Confirmation of the assessment is final.

(c) If no objection is filed or provided in this section, the assessment is regular and valid in all respects.

Sec. 29.63.085. Special assessment bonds. The council may by ordinance authorize the assessor to issue special assessment bonds to pay all or part of a special assessment district. The bonds shall be payable solely from the property to be benefited and a sinking fund for the payment of the bonds. The property benefited may be required to secure a payment.

(b) Upon default in a payment, the bondholder may enforce payment of collection in a civil action and have the same effect as actions for the foreclosure of property. Foreclosure shall be against the property if the bonds are in default. The period of limitation in the case of a mortgage foreclosure is the same as for a mortgage foreclosure.

(c) Before the assembly or council confirms the assessment, it shall establish a guarantee fund. It shall annually appropriate a sum adequate to the payments of principal and interest on the assessment when the property is not paid against property for nonpayment of assessments when credited to the guarantee fund. It shall be a cost of the improvement.

Linda Anderson

07/29/82

HISTORY OF LEGISLATION

RO1-33F-3040

PAGE 0050

HR 87 AN ACT ALLOWING MUNICIPALITIES TO EXEMPT LAND FROM PROPERTY TAXES AND FROM SPECIAL ASSESSMENTS FOR FIRE PROTECTION SERVICE AND FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: CS*(CIRA)

PRIME SPONSORS: BROWN

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/04/81	01	0157	FIRST READING -- COMMITTEE REPORTS	** 03/31/81	09	0585	FIRST READING -- COMMITTEE REPORTS
03/24/81	02	0671	C&RA -- DNP01, CS02, NR02				C&RA RULES
03/30/81	03	0740	SECOND READING				
03/30/81	04	0740	C&RA CS ADOPTED BY UNAN CONSENT				
03/30/81	03	0740	ADVANCED TO 3RD READING BY UNAN CONSENT				
03/11/81	06	0740	THIRD READING				
03/11/81	07	0740	PASSED BY DIV 31-06-03				
03/11/81	08	0741	EFFECTIVE DATE VOTE SAME AS PASSAGE				

HR 88 AN ACT RELATING TO THE QUALIFICATIONS FOR THE FARM OR AGRICULTURAL LANDS TAX EXEMPTION; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: *AM

PRIME SPONSORS: BROWN

CO-SPONSORS: MOSS ROGERS

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/04/81	01	0157	FIRST READING -- COMMITTEE REPORTS	05/12/81	12	1040	FIRST READING -- COMMITTEE REPORTS
05/01/81	02	1166	C&RA -- DP(AM)., NR04	06/09/81	13	1423	C&RA COMM REFERRAL ADDED BY UNAN CONSENT
05/08/81	03	1303	SECOND READING	** 06/09/81	14	1423	MOVED FROM RES TO C&RA BY UNAN CONSENT
05/08/81	04	1303	AM01 ADOPTED BY UNAN CONSENT				C&RA
05/08/81	05	1304	AM02 ADOPTED BY UNAN CONSENT				IF SPORTATION
05/03/81	06	1304	ADVANCED TO 3RD READING BY UNAN CONSENT				F. CE
05/08/81	07	1304	THIRD READING				RI
05/14/81	08	1304	PASSED BY DIV 36-02-02				
05/08/81	09	1305	EFFECTIVE DATE VOTE SAME AS PASSAGE				

C&RA DEPARTMENT CONCERNS ON HB 87

The amendment to Sec. 3. AS 29.53.405 is improper because, as we read that section of the bill, it has no relationship to the differential tax zone concept. That concept provides for a systematic reduction of taxes paid for services, as those services, for reasons of geographic location and/or restricted access, are reduced in quality or amount. Differential tax zones may be established only in cities and, once established, provide a general property tax which funds all services within and throughout that city.

That section of HB 87 refers to "...a fire service district..." indicating to us that the intent of the bill is to apply the tax exemption of land in conjunction with some form of special service district and not in conjunction with the differential tax zones concept. Cities do not create "service districts" they can only create differential tax zones. That indication is further reinforced by Sec. 4 of the bill which suggests an amendment to AS 29.63. Special Assessments and Service Areas. We cannot see any workable way for a city to operate in accordance with the bill if Sec. 3. amending AS 29.53.405 is adopted.

If the intention of the bill is to allow a partial exemption of land (the fire protection portion of the mill rate only) throughout the area where the service is available, and on a basis equitable to all property owners within that area, it is our position that a modified Section 3 of the bill should appear under Sec. 29.53.025 Optional exemptions and exclusions.

We definitely object to the "no lien" concept stated in Sections 3 and 4 of the bill. If there can be no lien against the property, there is no way to ensure collection of revenues necessary to fund the fire protection service. In addition, the "no lien" provision in Section 4 certainly would cause problems in securing bonding for the cost of improvements (i.e. fire station, water system for fire protection, etc.) constructed after creation of a special assessment district.

Assuming the purpose of the bill is to collect revenues based on value of structures to be protected from fire damage, we can see a problem with undefined use of the term "improvements". Site preparation, septic tanks, etc. are normally considered to be improvements; however, they would not necessarily be damaged by fire.

Additionally, we see merit to the position that fire protection units normally protect land as well as structures (in cases of brush fires or forest fires) and, therefore, both land and improvements should be assessed for the service.

ALASKA
STATE LEGISLATURE
MEMORANDUM

To: Ben
From: Linda
Re: Comparison/ HB 87 & CSHB 87

Date: March 20, 1981

HB 87

- Sect. 1 - (Home Rule Limitations) amending 29.13.100(22) to include 'Differnetial Tax Zones' (29.53.405)
- Sect. 2 - (Home Rule Limitations) amending 29.13.100(36) to include 29.63.066 - new subsection "Optional Exemptions".
- Sect. 3 - 29.53.405 amended by new subsection (b) - allowing optional exemptions by municipalities and incorporating a "no lien" concept to certain assessments.
- Sect. 4 - 29.63 - amended by new section- 29.63.066 - Optional Exemptions and incorporating a "no lien" concept to certain assessments.

CSHB 87

Section Deleted

Section Deleted

Sect. 1- Optional Exemption for assessment placed under 29.53.025 (h) - Optional Exemptions and Exclusions. Deletes "no lien" concept.

Sect. 2- Addressing 29.63 to include 29.63.066 (same as HB 87) but deletes "no lien" concept.

voters at a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved. (§ 2 ch 118 SLA 1972; and § 9 ch 200 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in paragraph (b) and substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in paragraph (d) of subsection (a).

Sec. 29.13.080. Charter amendment. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060—29.28.110, except that no amendment shall be effective unless ratified by the voters. (§ 2 ch 118 SLA 1972)

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

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

- (1) AS 29.13.080 (charter amendment)
- (2) AS 29.18.140 (borough transition)
- (3) AS 29.23.020—29.23.050 (city representation and vote on borough assembly)
- (4) AS 29.23.250 (a) (election and term of mayor)
- (5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)
- (6) AS 29.23.560 (municipal reports)
- (7) AS 29.23.580 (meetings public)
- (8) AS 29.28.010, 29.28.020(b) — 29.28.080 (municipal elections)
- (9) AS 29.28.180—29.28.250 (recall)
- (10) AS 29.33.010(b) (areawide borough powers)
- (11) AS 29.33.290(c) (acquisition of additional areawide powers)
- (12) AS 29.48.020—29.48.040 (powers of cities outside boroughs)
- (13) AS 29.48.033 (garbage and solid waste services)
- (14) AS 29.48.085(b) (effect of areawide exercise of borough power)

- (16) AS 29.48.087 (extraterritorial jurisdiction)
- (17) AS 29.48.040—29.48.100 (utilities)
- (18) AS 29.48.180 (codification)
- (19) Repealed by § 8 ch 147 SLA 1972, effective September 10, 1972.

- (20) AS 29.48.210 (expenditure of borough revenue)
- (21) AS 29.48.220 (post audit)
- (22) AS 29.53.010—29.53.350, 29.53.4 (borough and city property tax)

- (23) AS 29.53.415 (d) (interest on sales tax)
- (24) AS 29.58.180 (b) (security for bonds)
- (25) AS 29.53.315 (bond attorneys, bond and financial consultants)
- (26) AS 29.68.010 (annexation and exclusion)
- (27) AS 29.68.030—29.68.110 (merger and consolidation)
- (28) AS 29.68.500—29.68.580 (dissolution)
- (29) AS 29.73.020 (eminent domain)
- (30) AS 29.73.030 (adverse possession)
- (31) AS 29.73.040 (taxation of municipalities)
- (32) AS 29.73.050 (municipal name changes)
- (33) AS 29.23.555 (conflict of interest). (§ 2 ch 118 SLA 1972; and § 2, ch 147 SLA 1972)

Editor's note (1972).—In ch. 118, SLA 1972, AS 29.48.036(b) was omitted from the list in AS 29.13.100. Here, by its own terms, it applies to home rule municipalities, it has been included here as AS 29.13.100(14); succeeding paragraphs (including the one added by § 2, ch. 147 SLA 1972)

have been renumbered. For specific discussion of AS 29.13.100, see 1972 House Journal, p. 1720 or 1972 Senate Journal Supplement No. 3, p. 3.
Effect of amendment. — The 1972 amendment, effective September 10, 1972, added paragraph (38) and repealed paragraph (19).

Chapter 18. Incorporation.

Article

- 1 Requirements (§§ 29.18.010—29.18.030)
- 2 Procedures (§§ 29.18.050—29.18.150)
- 3 Transitional Assistance (§§ 29.18.180—29.18.200)
- 4 Development Cities (§§ 29.18.220—29.18.460)

Article 1. Requirements.

Section

- 18 First class cities
- 20 Second class cities

Section

30. Organized boroughs

Sec. 29.18.010. First class cities. A community having 400 or more permanent residents may incorporate as a first class city. (§ 2 ch 118 SLA 1972)

8:40
HB87 Absent:
Randolph
O'Connell

concerns last time -
Jenkins (none) -

Peter Fralich - Aide Rep. Brown

Authorizes optional power of municip.
discussed comparison

Fuller - Define improvements - not addressed in bill.
not a problem by legal services.

Miller - Move bill out as CS w/ indiv. rec.

Bylsma - Objects to entire bill. - (voted 'no' to passing
bill out.

U. Reclassification. The date of reclassification of a borough for which is approved under (h) of this section is the first day of the calendar year which begins at least six months after the date the reclassification proposition has been approved by the

LA 1977)

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

V. Transition.

People Native Ass'n v. No. 2058 (File No. 79 P.2d 32 (1980).

Chapter 13. Home Rule Municipalities.

Article 1. Charters.

adoption

Municipal charter adoption. A first class second class borough may adopt a charter for its own home rule municipality may amend its charter or adopt a charter is framed by a charter commission of seven members by the municipal voters at a regular or special election. The commission shall be a qualified voter of the borough and a resident of the municipality for three years preceding the election. A charter commission election is held by the borough assembly or the city council. The petition shall be signed by a number of municipal voters equal to 15 percent of the last regular election of the municipality. (§ 2 ch 127 SLA 1980)

ent. — The 1980 "or second class" sentence, substituted "shall" for "must" in the fourth and sixth sentences, and substituted "15" for "10" near the end of the section.

Initiative and referendum.

prohibited. — signatures of 25 percent of those voting in the last general election. Area Dispatch Inc. v. City of Anchorage, Sup. Ct. (Op No.

Article 2. Home Rule Limitations.

Section 100. Limitation of home rule powers

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

- (3) [Effective until January 1, 1981] AS 29.23.020 — 29.23.050 (borough assembly representation)
 - (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 1976 amendment added paragraph (36).

The 1976 amendment substituted "AS 29.58.345" for "AS 29.58.340" at the beginning of paragraph (36).

The 1977 amendment added paragraph (37).

nder AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

(1) an amount equal to two percent of the value of the structure assessed on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure assessed on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

am §§ 1, 2 ch 60 SLA 1973; am § 1 ch 65 SLA 1975; am § 1 ch 191 SLA 1976; am § 1 ch 217 SLA 1976; am §§ 1, 2 ch 229 SLA 1976; am § 1 ch 97 SLA 1977; am §§ 2, 3 ch 45 SLA 1980; am § 2 ch 95 SLA 1980.)

Effect of amendments. — The 1973 amendment deleted "whose gross annual income totals less than \$10,000" preceding "is exempt" in the first sentence of subsection (e), deleted the language beginning "however" from the end of the present second sentence of that subsection, and deleted the language following "exemption claimed under this section" from the end of the fourth sentence of subsection (f).

The 1978 amendment, in subsection (f), divided the former second sentence into the present second and third sentences by substituting "The claimant" for "and" at the beginning of the present third sentence, added the language beginning "but during the same year" to the end of the second sentence, and added the present fourth sentence.

The first 1976 amendment, in subsection (b), substituted "a bishop, pastor" for "the pastor" in paragraph (1) and inserted "religious administrative files" in paragraph (2).

The second 1976 amendment, in subsection (e), deleted "After January 1, 1973" from the beginning of the first sentence, added the language beginning "up to and including an assessed value limit" to the end of that sentence, and added the former second sentence.

The third 1976 amendment added the second sentence of subsection (g), added "except as provided in (g) of this section," at the beginning of subsection (h), and

by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state."

The 1977 amendment, in subsection (e), deleted "up to and including an assessed value limit determined no later than January 15 of each year by the commissioner of the Department of Community and Regional Affairs" from the end of the first sentence and deleted the former second sentence, which read "The assessed value limit is the upper limit of the third quartile class in a frequency distribution of previous year assessed values in the state."

The first 1980 amendment, effective July 1, 1980, added paragraph (7) of subsection (e) and subsection (j).

The second 1980 amendment, effective July 1, 1980, added paragraph (8) of subsection (e).

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

Strict construction.

The courts must narrowly construe statutes granting tax exemptions. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Burden of showing eligibility for exemption. — A taxpayer claiming a tax exemption has the burden of showing that the property is eligible for the exemption.

Exclusive use for nonprofit religious, etc., purposes must be shown. In order to qualify for an exemption, the taxpayer must show not only exclusive use for nonprofit religious, charitable, cemetery, hospital or educational purposes. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

When the property in question is used even in part by nonexempt parties for their private business purposes, there can be no exemption. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Actual use rather than owner's use should be analyzed in determining eligibility for an exemption. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Sec 1 - CS+B 87

Sec. 29.53.025. Optional exemptions and exclusions. (a)

Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election. An exclusion or exemption authorized by this section may not exceed \$10,000 for any one residence.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property does not exceed the actual cost to the owner of the use by the renter; and

(C) historic sites, buildings and monuments;

(D) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this section may be conveyed by the state only in accordance with AS

Office space rented to doctors engaged in private practice. — Office space in a building partially used exclusively for nonprofit hospital purposes, rented to doctors engaged in the private practice of medicine by a nonprofit charitable and religious corporation, was not exempt from taxation. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

While the use of office space by doctor-tenants in conducting their private practices does provide incidental benefits to the adjacent hospital, the office space is not used exclusively for hospital purposes. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

(1) a home rule or first or second class borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting;

(3) a home rule or general law city within an organized borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act.

(e) Municipalities may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. However, the easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property so that the property owner is compensated at a rate which does not reflect the easement grant.

(f) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land or new maintenance, repair or renovation of an existing structure and if the alteration, maintenance, repair or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. No exemption may be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use within the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed or from the date of approval for the exemption by the local

family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later. (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

CSHB87 (h) - Sect 1.

Effect of amendments. — The 1975 amendment added the second sentence of subsection (a).
The 1977 amendment added subsections (f) and (g).
The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

The 1977 amendment added subsections (f) and (g).

The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and

Ben -

3/20 Friday

Here is our CS for 87.

An opinion (as requested
by the committee) is

forthcoming by Billy

Berner - It will be

ready by meeting time

on Monday morning.

2.

The attached is in all
Committee files.

1) Sec 1 or Sec 2? (whichever relates to Home Rule Powers)

- CFA question - why is this under limitation of Home Rule Powers. (no longer necessary if "no lien clause removed")

2) Remove "no lien" concept in bill.

3) Sec. 4 - ~~also~~ delete 065 + insert in addressed in Sec. 29.53.025 on substitute for 29.53.025?

Tam

~~have additional clause~~

Reg-jo Tam - 3/16/81 -

3/9/81 - Spoke w/ Rep. Brown - Reg. backup

3/10/81 - Notified ^{Rep} Moss

3/10/81 - " Rep. Carney

3/10/81 - call Terry Early - for fiscal/local Gov't.

Problems: CRA (McLester) expressed concerns:

- 1) bonding marketability
- 2) special assessment areas

Spoke w/ Tom about bill / - doesn't understand McLester's Problems

Requested 'written' position stating problems from McLester
(Dave Rose) bonding effects of bill.

request for redraft thru Tom Cook - would draft copy first - 3/14/81
address problems



Rick
linear - Int.
Summer
Assoc. -
misc file
J. Max
Carney

Chris
Bright

16 March 81

Adams
change: local governments as well as IRA villages

Palmer Carter:

Title 29

IRA - 1934 Aki: 1936 flow:

police power, etc.

councilmanate

Montak - IRA

~~100~~ - 2nd class cities

Vicky Lord

Chitwood 29.89 020

HB 87

Ken

Brown

Peter Froelick

Fire service district \neq differential tax zone

we now need 40000 for IRA villages! Annually

I need your office couch in my apt.

ALASKA

STATE LEGISLATURE

MEMORANDUM

To: Ben

Date: March 20, 1981

From: Linda

Re: Comparison/ HB 87 & CSHB 87

HB 87

- Sect. 1 - (Home Rule Limitations) amending 29.13.100(22) to include 'Differnetial Tax Zones' (29.53.405)
- Sect. 2 - (Home Rule Limitations) amending 29.13.100(36) to include 29.63.066 - new subsection "Optional Exemptions".
- Sect. 3 - 29.53.405 amended by new subsection (b) - allowing optional exemptions by municipalities and incorporating a "no lien" concept to certain assessments.
- Sect. 4 - 29.63 - amended by new section- 29.63.066 - Optional Exemptions and incorporating a "no lien" concept to certain assessments.

CSHB 87

Section Deleted

Section Deleted

Sect. 1- Optional Exemption for assessment placed under 29.53.025 (h) - Optional Exemptions and Exclusions. Deletes "no lien" concept.

Sect. 2- Addressing 29.63 to include 29.63.066 (same as HB 87) but deletes "no lien" concept.

... At a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved. (§ 2 ch 118 SLA 1972; and § 9 ch 200 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in paragraph (b) of subsection (a).

Sec. 29.13.080. Charter amendment. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060—29.28.110, except that no amendment shall be effective unless ratified by the voters. (§ 2 ch 118 SLA 1972)

Article 2. Home Rule Limitations.

Section 100. Limitation of home rule powers

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

- (1) AS 29.13.080 (charter amendment)
- (2) AS 29.18.140 (borough transition)
- (3) AS 29.23.020—29.23.050 (city representation and vote on borough assembly)
- (4) AS 29.23.250 (a) (election and term of mayor)
- (5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)
- (6) AS 29.23.560 (municipal reports)
- (7) AS 29.23.580 (meetings public)
- (8) AS 29.28.010, 29.28.020(b) — 29.28.030 (municipal elections)
- (9) AS 29.28.180—29.28.250 (recall)
- (10) AS 29.33.010(b) (areawide borough powers)
- (11) AS 29.33.290(c) (acquisition of additional areawide powers)
- (12) AS 29.43.020—29.43.040 (powers of cities outside boroughs)
- (13) AS 29.48.033 (garbage and solid waste services)
- (14) AS 29.48.035(b) (effect of areawide exercise of borough power)

- (16) AS 29.48.037 (extrajurisdiction)
- (17) AS 29.48.040—29.48.100 (utilities)
- (18) AS 29.48.180 (codification)
- (19) Repealed by § 8 ch 147 SLA 1972, effective September 10, 1972.
- (20) AS 29.48.210 (expenditure of borough revenue)
- (21) AS 29.48.220 (post audit)
- (22) AS 29.53.010—29.53.350, 29.53.400 (borough and city property tax)
- (23) AS 29.53.415(d) (interest on sales tax)
- (24) AS 29.58.180(b) (security for bonds)
- (25) AS 29.58.315 (bond attorneys, bond and financial consultants)
- (26) AS 29.68.010 (annexation and exclusion)
- (27) AS 29.68.030—29.68.110 (merger and consolidation)
- (28) AS 29.68.500—29.68.580 (dissolution)
- (29) AS 29.73.020 (eminent domain)
- (30) AS 29.73.030 (adverse possession)
- (31) AS 29.73.040 (taxation of municipalities)
- (32) AS 29.73.050 (municipal name changes)
- (33) AS 29.23.555 (conflict of interest). (§ 2 ch 118 SLA 1972; and § 2, ch 147 SLA 1972)

Reviser's note (1972).—In ch. 118, SLA 1972, AS 29.48.035(b) was omitted from the list in AS 29.13.100. Here, by its own terms, it applies to home rule municipalities, it has been included here as AS 29.13.100(14); succeeding paragraphs (including the one added by § 2, ch. 147 SLA 1972)

have been renumbered. For specific discussion of AS 29.13.100, see 1972 House Journal, p. 1720 or 1972 Senate Journal Supplement No. 3, p. 3.
Effect of amendment. — The 1972 amendment, effective September 10, 1972, added paragraph (33) and repealed paragraph (19).

Chapter 18. Incorporation.

- ### Article
- 1 Requirements (§§ 29.18.010—29.18.030)
 - 2 Procedures (§§ 29.18.050—29.18.150)
 - 3 Transitional Assistance (§§ 29.18.180—29.18.200)
 - 4 Development Cities (§§ 29.18.220—29.18.460)

Article 1. Requirements.

- | | |
|--|---|
| <h4>Section</h4> <ol style="list-style-type: none"> 11 First class cities 12 Second class cities | <h4>Section</h4> <ol style="list-style-type: none"> 10. Organized boroughs |
|--|---|

Sec. 29.18.010. First class cities. A community having 400 or more permanent residents may incorporate as a first class city. (§ 2 ch 118 SLA 1972)

Reclassification.

date of reclassification of a borough for which approved under (h) of this section is the first day of year which begins at least six months after the date reclassification proposition has been approved by the

1977)

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

Transition.

Native Ass'n v.
2064 (File No.
2d 32 (1980).

13. Home Rule Municipalities.**Article 1. Charters.**

Adoption

Municipal charter adoption. A first class and second class borough may adopt a charter for its own home rule municipality may amend its charter or adopt a charter is framed by a charter commission of seven members by the municipal voters at a regular or special election for the commission shall be a qualified voter of the municipality for three years preceding the election. A charter commission election is held in conjunction with the borough assembly or the city council. The petition for the borough assembly or city council. The petition for the number of municipal voters equal to 15 percent of the total number of voters in the last regular election of the municipality. (§ 2 ch 127 SLA 1980)

— The 1980 amendment substituted "shall" for "must" in the fourth and sixth sentences, and substituted "15" for "10" near the end of the section.

Initiative and referendum.

— signatures of 25 percent of those voting in the last general election. Area Dispatch

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as 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 home site 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 1976; 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 related prior to the first 1973

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

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2) an amount equal to two percent of the value of the structure
ed on the assessment as of January 1 of the year immediately
owing the installation of the fire protection system if the fire
tection system becomes a fixture of the structure after January 1,
1981.

§§ 1, 2 ch 60 SLA 1973; am § 1 ch 65 SLA 1975; am § 1 ch 191
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(0.)

Effect of amendments. — The 1973
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second sentence, and added the present
sentence.

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section (h), substituted "a bishop,
or" for "the pastor" in paragraph (1)
inserted "religious administrative
es" in paragraph (2).

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section (e), deleted "After January 1,
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ence, added the language beginning
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by reason of the exemption authorized in
those provisions may be reimbursed to the
municipality by the state."

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deleted "up to and including an assessed
value limit determined no later than
January 15 of each year by the
commissioner of the Department of
Community and Regional Affairs" from
the end of the first sentence and deleted
the former second sentence, which read
"The assessed value limit is the upper
limit of the third quartile class in a
frequency distribution of previous year
assessed values in the state."

The first 1980 amendment, effective
July 1, 1980, added paragraph (7) of
subsection (e) and subsection (j).

The second 1980 amendment, effective
July 1, 1980, added paragraph (8) of
subsection (a).

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

Strict construction.

The courts must narrowly construe
statutes granting tax exemptions. *Greater
Anchorage Area Borough v. Sisters of
Charity of House of Providence, Sup. Ct.
Op. No. 1299 (File No. 2445), 553 P.2d 467
(1976).*

**Burden of showing eligibility for
exemption.** — A taxpayer claiming a tax
exemption has the burden of showing that
the property is eligible for the exemption.
Greater Anchorage Area Borough v.

**Exclusive use for nonprofit
religious, etc., purposes must be
shown.** In order to qualify for an
exemption, the taxpayer must show not
benefits, but exclusive use for nonprofit
religious, charitable, cemetery, hospital or
educational purposes. *Greater Anchorage
Area Borough v. Sisters of Charity of
House of Providence, Sup. Ct. Op. No. 1299
(File No. 2445), 553 P.2d 467 (1976).*

When the property in question is used
even in part by nonexempt parties for their
private business purposes, there can be no
exemption. *Greater Anchorage Area
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Providence, Sup. Ct. Op. No. 1299 (File No.
2445), 553 P.2d 467 (1976).*

Actual use rather than owner's use
should be analyzed in determining
eligibility for an exemption. *Greater
Anchorage Area Borough v. Sisters of
Charity of House of Providence, Sup. Ct.
Op. No. 1299 (File No. 2445), 553 P.2d 467
(1976).*

sect - CS4B87

Sec. 29.53.025. Optional exemptions and exclusions (a)

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(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may
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their registered or certificated net tonnage; a tax based upon a tonnage
valuation shall not exceed \$5 a year for a boat or vessel of less than five
net tons and shall not exceed \$15 a year for a boat or vessel of more
than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the
head of a family or a householder; and

(B) the property of an organization not organized for business or
profit-making purposes and used exclusively for community purposes,
provided that income derived from rental of such property does not
exceed the actual cost to the owner of the use by the renter; and

(C) historic sites, buildings and monuments;

(D) land of a nonprofit organization used for agricultural purposes if
rights to subdivide the land are conveyed to the state and the
conveyance includes a covenant restricting use of the land to
agricultural purposes only; rights conveyed to the state under this

Office space rented to doctors
engaged in private practice. — Office
space in a building partially used
exclusively for nonprofit hospital
purposes, rented to doctors engaged in the
private practice of medicine by a nonprofit
charitable and religious corporation, was
not exempt from taxation. *Greater
Anchorage Area Borough v. Sisters of
Charity of House of Providence, Sup. Ct.
Op. No. 1299 (File No. 2445), 553 P.2d 467
(1976).*

While the use of office space by
doctor-tenants in conducting their private
practices does provide incidental benefits
to the adjacent hospital, the office space is
not used exclusively for hospital purposes.
*Greater Anchorage Area Borough v.
Sisters of Charity of House of Providence,
Sup. Ct. Op. No. 1299 (File No. 2445), 553
P.2d 467 (1976).*

(1) a home rule or first or second class borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting;

(3) a home rule or general law city within an organized borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act.

(e) Municipalities may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. However, the easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property so that the property owner is compensated at a rate which does not reflect the easement grant.

(f) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land or new maintenance, repair or renovation of an existing structure and if the alteration, maintenance, repair or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. No exemption may be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use within the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed or from the date of approval for the exemption by the local

family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

CSHB 87 (h) - Sect 1.

Effect of amendments. -- The 1973 amendment added the second sentence of subsection (a).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

The 1977 amendment added subsection (f) and (g).

The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use land included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for use incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising an



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 87, By Rep. Brown

"An Act allowing municipalities to exempt land from property taxes for a fire service district; and providing for an effective."

This bill allows municipalities to exempt land from property taxes for a fire service district.

The bill adds a new subsection to AS 29.53.405 (Municipal Assessment and taxation. Differential tax zone) which states:

(b) If a tax under this section is for a fire service district, a city may exempt land and levy the tax only on improvements, including personal property affixed to the improvements.

Notwithstanding AS 29.53.210(b), a real property tax levied on improvements under this subsection is not a lien upon the property assessed."

Adds a new section to AS 29.63 (Special Assessments and Service Areas) to read: "Optional Exemption."

If an assessment under this chapter is for a fire service district, a municipality may exempt land and levy the assessment only on improvements, including personal property affixed to the improvements.

Notwithstanding 29.63.060(d), an assessment levied on improvements under this section is not a lien upon the property assessed.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 13, 1981

The Honorable Ben Grussedorf
Chairman
House Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Grussedorf

RE: COMMUNITY AND REGIONAL AFFAIRS POSITION
ON HB 87 (as currently drafted)

The afternoon of March 12, 1981 we requested a meeting to discuss HB 87.
Those present were as follows:


Linda Otey aide to Rep. Grussedorf
Peter Froenlich, aide to Rep. Brown (Sponsor)
Palmer McCarter, Director, Community and Regional Affairs
Michael Worley, Assistant State Assessor

It was our understanding after the meeting that, in light of our suggestions,
HB 87 was to be redrafted and scheduled for hearing at a later date.

We now are told that the bill will be heard, unchanged, on Monday,
March 16, 1981. Considering that, and pursuant to your aide's request, we
have attached discussion of some of the problems we are having with the bill.

Sincerely,

LEE McANERNEY
COMMISSIONER


By: Michael W. Worley
Assistant State Assessor

Enclosure

3/13/81

Dear Representative Brown:

I support H.B. 87 which would exempt land from property taxes (allows taxing on improvements). Part of the reason Fire Service Districts get voted down is because people owning large areas of unimproved land don't want to pay for fire service when they have nothing to burn. This deprives those who have homes to lose the fire protection they need and may want. Let's separate the two and support this bill. Thank you for your time and efforts in consideration of this worthwhile bill.

Karen Ruddle

Mrs. Karen Ruddle, S. R. Box 40454-X, Fairbanks, AK 99701

C&RA DEPARTMENT CONCERNS ON HB 87

The amendment to Sec. 3. AS 29.53.405 is improper because, as we read that section of the bill, it has no relationship to the differential tax zone concept. That concept provides for a systematic reduction of taxes paid for services, as those services, for reasons of geographic location and/or restricted access, are reduced in quality or amount. Differential tax zones may be established only in cities and, once established, provide a general property tax which funds all services within and throughout that city.

That section of HB 87 refers to "...a fire service district..." indicating to us that the intent of the bill is to apply the tax exemption of land in conjunction with some form of special service district and not in conjunction with the differential tax zones concept. Cities do not create "service districts" they can only create differential tax zones. That indication is further reinforced by Sec. 4 of the bill which suggests an amendment to AS 29.63. Special Assessments and Service Areas. We cannot see any workable way for a city to operate in accordance with the bill if Sec. 3. amending AS 29.53.405 is adopted.

If the intention of the bill is to allow a partial exemption of land (the fire protection portion of the mill rate only) throughout the area where the service is available, and on a basis equitable to all property owners within that area, it is our position that a modified Section 3 of the bill should appear under Sec. 29.53.025 Optional exemptions and exclusions.

We definitely object to the "no lien" concept stated in Sections 3 and 4 of the bill. If there can be no lien against the property there is no way to ensure collection of revenues necessary to fund the fire protection service. In addition, the "no lien" provision in Section 4 certainly would cause problems in securing bonding for the cost of improvements (i.e. fire station, water system for fire protection, etc.) constructed after creation of a special assessment district.

Assuming the purpose of the bill is to collect revenues based on value of structures to be protected from fire damage, we can see a problem with undefined use of the term "improvements". Site preparation, septic tanks, etc. are normally considered to be improvements; however, they would not necessarily be damaged by fire.

Additionally, we see merit to the position that fire protection units normally protect land as well as structures (in cases of brush fires or forest fires) and, therefore, both land and improvements should be assessed for the service.