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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HCS CSSB 180 (Judiciary)
 Title An act relating to municipal government (Title 29 re-write)
 Requested by Representative Ramona Barnes Date 4/23/82

II. FISCAL DETAIL
 Agency Affected Community and Regional Affairs
 Program Category Affected Development
 BRU, Program, Or Subprogram(s) Affected Training and Development
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-		
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-	-0-	-0-		
FEDERAL FUNDS	-0-	-0-	-0-	-0-		
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	-0-	-0-		
PART TIME						
TEMPORARY						

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

There is no fiscal impact with passage of this legislation.

IV. DATE April 23, 1982 PREPARED BY Palmer McCarter - Director
 AGENCY Local Gov. Asst. Div. - C & RA
 Original: Legislative Finance PHONE 465-4707
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

To: All Committee Members
House CRA Committee

Date: March 25, 1982

From: Linda Otey, Committee Aide *LO*

Re: Differences-- CSSB 180(CRA)am / CSHB 170 (CRA)

Changes made in Committee:

CSSB 180
1. 600 pop. necessary for reclassification of 2nd class to 1st class status.

House accepted
CSHB 170
400 population requirement for reclassification

2. Temporary law section added to allow pending applicants for reclassification to be permitted if petition has been filed with the Dept. before the effective date of this act.

-----none-----

3. -----none-----

House Deleted

House accepted

amended/regarding notification of certification of petitions; recall and initiative. (pg. 64)

Changes made on Senate Floor:

4. By Ziegler/ to allow borough mayors to vote in the event of a tie (pg. 4)

House accepted

5. Deleted language of mandatory, non-suspendable imprisonment for violation of an ordinance. (Pg. 59)

House accepted

6. By CRA Committee - "the assembly shall (may) establish short plat procedure. Returned to mandate of current law in waiver procedure. (Pg. 90-91)

House returned w/ approval of Senate

7. By Gilman- returned to current law - taxation of vessels: \$5 max-5 tons or less, \$15 max- over 5 tons. (Pg. 102)

deleted

Reinserted - no limit

CSSB 180

Deleted

8. By Gilman/Kerttula - amended percentages back to current law. (Pg. 115)
9. By Sen. CRA- amended definition of 'subdivision' to be consistent with other statutory references. (Pg. 174)

Deleted

accepted

CSHB 170

Rates of Penalty & Interest:
20%, 15%, 20%

- accepted House long.

House - Also accepted 2 technical amendments requested by Tam Cook.

House. Deleted Chapter 14 - Capital City - "Retained current law"

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99901
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 25, 1982

SUBJECT: Municipal government
(CSSB 180 (C&RA) am)

TO: Representative Patrick M. O'Connell
Chairman, House Community and Regional
Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

I have discovered three technical mistakes in CSSB 180 (C&RA) am which is currently in your committee.

1. Chapter 14, which begins on page 31 is essentially identical to the provisions dealing with the capital city currently contained in AS 29.18.510 - 29.18.610. However, Sec. 7, Chapter 143, SLA 1978 provides that the Capital City Incorporation Act ". . . takes effect 30 days after certification that a bond issue for costs of relocation of the capital has been adopted by the voters of the state". This effective date was inadvertently omitted from CSSB 180 (C&RA) am, so that Chapter 14 takes effect on the effective date of the Act. I would recommend that an effective date similar to that contained in Sec. 7 Chapter 143, SLA 1978 be added with respect to Chapter 14, or that the first sentence of Sec. 29.14.010 be changed to read: "Thirty days after certification that a bond issue for costs of relocating the state capital has been authorized by the voters of the state there is created and incorporated a city of the state as the capital city of Alaska that is a city of the first class."

2. On page 132, line 2 there is a reference to AS 34.-
10.070 - 34.10.220 which has been carried over from existing law. Those sections have been repealed and the reference should be deleted from this Act.

*Unen-
passed*

Representative Patrick M. O'Connell

Page 2

March 25, 1982

*was
found* 3. On page 192, line 28 an existing chapter in Title 29 was inadvertently omitted from the repealer. AS 29.48 should be repealed in this Act, since material currently in AS 29.48 has been reorganized into Chapter 35 of this Act.

Please contact me if you have any questions regarding these technical corrections and let me know if you would like the corrections incorporated into a committee substitute for your committee.

TBC:ljb

17.11.070

Amendments to CSMB170 and CSSB180
Municipal Government

Problem: No limitation is made upon the exercise of planning, platting and zoning authority with respect to projects authorized by a state or federal agency. This could result in the arbitrary and/or unreasonable exclusion or restriction of natural resource development on federal, state and fee lands.

Solution: Insert language in the bills which would prohibit local zoning decisions from interfering with federal or state agency decisions providing for the development of natural resources.

Compare: AS 25.30.030 which allows the governor to waive compliance with local zoning regulations for the construction of a public project.

Methods: (1) Impose limitation in Chapter 40 of Title 29, dealing with the exercise of zoning powers.

(2) Since home rule municipalities are not subject to Chapter 40 [except §§200 (subdivision of state land) and 100 (title to vegetated areas)], see AS 29.10-110, refer to limitation in Chapter 40 by inserting a new subsection in AS 29.10.110 (limitation of home rule powers).

Language: A. Amend AS 29.40 by adding a new section 210. Two Alternatives are suggested:

1. Alternative 1:

040 (C)

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE AGENCIES.

Ordinances, regulations or permit decisions adopted or promulgated under AS 29.35.130 or AS 29.40 may not preclude or otherwise impede an activity conducted pursuant to a lease, license, permit or other written authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity.

1. Alternative 2:

~~2. AS 29.40.270~~

AS 29.40.270. USES OF STATE CONCERN. (a) Ordinances, regulations and permit decisions adopted or promulgated under AS 29.33, AS 29.38, AS 29.40, or AS 29.41 may not arbitrarily or unreasonably restrict uses of state concern as defined in subsection (b) of this section.

(b) Uses of state concern means those land and water and air uses which would significantly affect the longterm public interest. These uses include:

(1) uses of national interest, including the use of resources for the siting of major facilities which contribute to meeting national energy needs, construction and maintenance of those facilities, and systems, resources development of federal, state and fee lands and national defense and related security facilities,

(2) uses of more than local concern, including those land, water and air uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single municipality,

(3) the siting of major energy facilities, activities pursuant to a state or federal oil and gas lease, or large-scale industrial or commercial development activities on fee land which are dependent on a given location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance

But city is not permitted to extend system beyond settled area.—It was never intended by the use of the term "adjacent" in this section to permit a municipality to leapfrog a settled area, particularly where such area is, from all appearances, a part of the metropolitan area, and extend its distribution system into the territory beyond. *Chugach Elec. Ass'n v. City of Anchorage*, 13 Alaska 747, 106 F. Supp. 6 (D. Alas. 1952).

Although city may extend system to noncontiguous area beyond unsettled area.—Under this section a municipality is authorized to extend its distribution system into any noncontiguous area within a reasonable distance of its corporate limits, provided that the intervening territory is unsettled and uninhabited or virtually so. *Chugach Elec. Ass'n v. City of Anchorage*, 13 Alaska 747, 106 F. Supp. 6 (D. Alas. 1952).

Purchasing land beyond limits to divert stream from reaching city.—

Since AS 29.10.117 (now AS 29.48.030) gives municipalities the express right to provide for the location and construction of sewers, aqueducts, and watercourses and widen, straighten, strengthen or change the channels of streams and water courses, such a grant of power would be idle if the city could not purchase ground outside of the incorporated limits and divert a stream beyond its limits and prevent it from reaching the incorporated limits, if such a course should be deemed advisable, rather than to confine its activities to the city limits proper. *Town of Seward v. Margules*, 9 Alaska 354 (1938).

If authority has not been expressly given by this section for a city to purchase land outside of the incorporated limits and to divert a stream beyond its limits and prevent it from reaching the incorporated limits, such authority is necessarily implied. *Town of Seward v. Margules*, 9 Alaska 354 (1938).

Sec. 29.48.050. Franchises and permits. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance.

(b) No franchise is valid until it has been submitted to the qualified voters of the city or borough area outside cities in which it applies, and at least 55 per cent of the votes cast are in favor of the franchise. At least 30 days notice of a franchise referendum election shall be given in the same manner as is provided for notice of regular municipal elections, and the notice shall specify the purpose of the election. The ordinance granting a franchise shall provide for its submission for ratification to the qualified voters of the city or borough area outside cities at either a regular or special election, and the result of the election shall be canvassed publicly by the council or assembly and spread upon the records of the minutes and the result declared and certified in the same manner as in a regular election.

(c) Public utilities regulated under AS 42.05 have the right to use the streets and other public places, upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the assembly or council requires. A dispute as to whether fees, terms, conditions, or exceptions are reasonable

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§ 29.89.010

MUNICIPAL GOVERNMENT

§ 29.89.030

Sec. 29.89.010. Revenue sharing payable. In addition to the equalization entitlements paid under AS 29.88.010 — 29.88.045, during each fiscal year the department shall pay aid

(1) to a municipality or other eligible recipient which has the power to provide the services described in AS 29.89.020 — 29.89.040 and exercises the power in the manner required by this chapter;

(2) to a Native village government under AS 29.89.050. (§ 3 ch 155 SLA 1980)

Sec. 29.89.020. State aid to municipalities for roads. (a) The department shall pay to a municipality which has power to provide for road maintenance and exercises that power, \$2,500 a mile for each mile of road, street or highway maintained by the local government, excluding (1) the official state highway system, (2) roads, streets or highways not dedicated to public use, (3) roads, streets or highways maintained under the local service road program (AS 19.30.111 — 19.30.251), and (4) alleyways, in accordance with regulations adopted by the Department of Transportation and Public Facilities. A payment may not be made under this subsection for maintenance of a road which is not used by automotive equipment.

(b) A frozen waterway and a connection from an inhabited area to a waterway which may be safely used for public transportation by automotive equipment and is so used during a portion of a year is eligible for a payment of \$1,500 per mile if the waterway and connection are maintained during the period of use by a municipality or combination of municipalities. The department, after consultation with the Department of Transportation and Public Facilities, shall determine which waterways and connections qualify and, where the waterways or connections lie outside the corporate limits of a municipality, which municipalities shall receive the payments under this subsection, unless the municipalities involved have agreed in writing to a particular distribution. (§ 3 ch 155 SLA 1980)

Sec. 29.89.030. State aid to municipalities and other eligible recipients for health facilities and hospitals. (a) The department shall pay

(1) to a municipality which has the power to provide hospital facilities and services and which exercises that power, \$1,000 per bed for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the hospital, or \$250,000 a hospital for those hospitals with 10 or more beds, or \$50,000 a hospital for those hospitals with less than 10 beds, as the municipality may elect; money received under this paragraph may be used only for hospitals and shall be apportioned among qualifying hospitals as the municipality determines;

equal to \$10 per capita for the population served by the department, as determined by the state fire marshal.

(b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized borough or city, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 3 ch 155 SLA 1980)

Sec. 29.89.050. State aid to Native village governments. The state shall pay \$25,000 to a Native village government for a village which is not incorporated as a city under AS 29.03.010 — 29.95.030. In this section, "Native village government" means

(1) a local governing body organized by authority of the Act of Congress of June 18, 1934 (25 U.S.C. § 476); or

(2) a traditional village council or, if there is no traditional village council, the paramount chief or other governing body of a Native village which meets the requirements of the Alaska Native Claims Settlement Act (43 U.S.C. §§ 1601 — 1628). (§ 3 ch 155 SLA 1980)

Sec. 29.89.060. Population determination. For purposes of AS 29.89.010 — 29.89.100, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls. (§ 3 ch 155 SLA 1980)

Sec. 29.89.070. Area cost-of-living differential. (a) Payments to a municipality or other eligible recipient under AS 29.89.020 — 29.89.030 shall reflect area cost-of-living differentials. Payments shall be based upon the sum of per capita, per mile and per bed or facility grants due each municipality or other recipient multiplied by the appropriate area cost-of-living differential. The area cost-of-living differential for each recipient shall be determined annually by election district under the provisions of AS 39.27.030. Application of the area cost-of-living differential may not result in distribution of an amount less than the amount of the payment determined without application of this section.

(b) The election districts used to establish area cost-of-living differentials under (a) of this section are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965. (§ 3 ch 155 SLA 1980)

Sec. 29.89.080. Miscellaneous services account. The miscellaneous services account is established. Money to carry out the provisions of AS 29.89.010 — 29.89.100 shall be allocated by the department to the account in accordance with AS 29.95.010. If amounts in the account

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