

SCOMM

#23:22

Compliments of . . .



**Phone
456-6668**

To be used with the

Quality Printing - Rubber Stamps

Sec. 29.09.180. ORGANIZATION GRANTS. (a) For the purpose of defraying the cost of transition to a municipal form of government and in order to provide for initial government operations, each municipality incorporated after January 1, 1981, or, for a second class city, reclassified after January 1, 1981 is entitled to an organization grant of \$150,000, except that a municipality which is merged, consolidated, or unified under AS 29.12. is not entitled to an organization grant.

EXPLANATION: Since no new municipality formed is likely to contain a great enough population to qualify for a grant over the minimum, the provision tying population to the amount of the grant has been eliminated in favor of a flat amount. The amount of the grant has been raised from \$25,000 to \$150,000 in recognition of the fact that setting up a government has become an expensive proposition and to encourage the formation of local governments despite this expense. In addition, a second class city will qualify to receive that grant as well as a city within an organized borough, whereas the existing law ties the amount of a grant to a second class city and to a first class city in an organized borough to its population. This change encourages the formation of local governments in rural areas where the population may be small. The formation of a city is expensive regardless of the size of the population. It is felt that the grant should be used to cover any initial government operation, so the terms "development and interim" were eliminated as unduly restrictive. The increased grant will be available only to a municipality formed after January 1, 1981.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.040. VOTER QUALIFICATION. (a) A person may vote if he meets the requirements of AS 15.05.010 - 15.05.040, has been a resident of the municipality for 30 days immediately preceding the election, is registered to vote in state elections and is not disqualified under article V of the state constitution.

(b) Voter registration by the municipality may not be required, and a municipality may not alter voter qualification requirements except that a municipality may by ordinance require a person to be a resident of the precinct, district, or service area in which he votes.

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

EXPLANATION: A reference has been provided to the voter qualification requirements for state elections. A municipality has been granted the flexibility of imposing a requirement that a person be a resident of the area in which he votes to avoid the possibility of people voting on nonareawide matters who will not have to live with the outcome of the vote.

Compliments of . . .



Phone
456-6668

[Faint, illegible handwritten text]

Quality Printing - Rubber Stamps

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.210. RECALL. An application for a petition for the recall of a mayor or a member of the assembly, council, or school board may be filed with the municipal clerk after the official has served six months of the term for which elected or appointed.

EXPLANATION. This section lists the municipal officials which may be recalled rather than providing for the recall of an elected official in order to avoid the possibility of recalling service area board members who may be elected officials. It clarifies the dates to be used in determining when the six month period has run and includes the possibility of recalling officials who are appointed to elected positions.

Sec. 29.30.330. SUCCESSORS. (a) If one or more officials is recalled from an assembly or council, the assembly or council, by the affirmative vote of a majority of the remaining members, may appoint a qualified person to fill a vacancy created by the recall.

(b) If all members of the assembly or council are recalled, the governor shall appoint at least three qualified persons to the assembly or council. The appointees shall, by an affirmative vote of the majority, appoint additional members to fill remaining vacancies.

(c) If one or more officials are recalled from a school board the assembly or council may appoint a qualified person to fill a vacancy created by the recall.

(d) A person appointed under (a) - (c) of this section shall serve until a successor is elected and takes office.

(e) If an official is recalled the clerk shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date of certification of the recall election, except that if a regular or special election occurs within 75 days of the certification of the recall election and the certification occurs at least 20 days prior to the latest date upon which first notice of the election must be published, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section; provided, nominations may be filed until the later of seven days before the latest date upon which first notice of the election must be published or the deadline for the filing of nominations for regular elections. Nominations may not be filed before the certification of the recall election.

EXPLANATION: This section has been expanded to prevent a local government from having to attempt to operate without a quorum of elected officials. Section (e) was changed to take into account times required for election notice and nominations.

19 November 1980

TO: TECHNICAL GROUP

FROM: Melissa Fouse
Secretary, Title 29 Commission

John Messenger has once again kindly consented to let us use his conference room for our meeting. The dates of the meeting are the 4th, 5th and tentatively the 6th of December, 1980. The address of John's office is 420 "L" Street, Suite 404, Anchorage.

STATE OF ALASKA THE LEGISLATURE

ROBERT F. STATE CAPTION
OFFICE OF THE CLERK
LEGISLATIVE AGENCY

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

19 November 1980

TO: Title 29 Technical Committee

FROM: Tamara Brandt Cook
Legislative Counsel *TBC*

SUBJECT: Changes to Drafts Suggested by the Policy Group

Here are revisions to the drafts proposed by the Technical Committee incorporating changes suggested by the Policy Group during their meeting held on November 10th and 11th. In addition to these revisions, two sections are being held by the Policy Group for further review: AS 29.09.180 (Organization Grants), and AS 29.30.040 (Voter Qualifications).

I would appreciate any comments which you may have regarding these revisions. I am planning on sending copies of the revisions to the Policy Group early in December.

TBC:maf

Enclosures

Sec. 29.12.260. COMPOSITION OF CHARTER COMMISSION. (a) The charter commission shall consist of 11 voters, three of whom shall be residents elected at large from the area of the borough and eight of whom, proportionate to the population as determined by the Department of Community and Regional Affairs, shall be

(1) residents of and elected from the area outside a home rule or first class city in the borough, or;

(2) residents of and elected from a home rule or first class city in the borough.

(b) If at least one nomination of a qualified charter commission candidate for each available seat is not filed in accordance with AS 29.12.240 the resolution or petition for unification is void and no election on the question shall be held.

EXPLANATION: Subsection (a) has been altered so that second class cities are included within the area outside cities for purposes of selecting representatives on the charter commission. This was done so that first class and home rule cities, with their greater concentrations of population, have less chance of overwhelming the rest of the borough. Subsection (b) has been added to avoid the expense and inconvenience of an election in the question of unification if not enough nominations of commission members are received. It is felt that failure to nominate a sufficient number of commission candidates indicates a general lack of interest in the question of unification.

Sec. 29.30.010. ADMINISTRATION. The borough assembly or city council shall prescribe the rules for conducting a municipal election and shall appoint an election board composed of at least three judges for each precinct. Unless no qualified voter is willing to serve, a judge shall be a voter of the precinct for which he is appointed.

EXPLANATION: Adds the provision that judges be appointed from among precinct voters in order to conform to the 1980 revision of AS 15.10.120. The following language was deleted as a duplication of AS 29.30.040: "The municipality may not alter voter qualification requirements of this title." Subsection (b), making this applicable to home rule municipalities, was deleted.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.050. MAJORITY ELECTIONS. (a) Unless otherwise provided by ordinance, there shall be a runoff election if no candidate receives over 40 percent of the votes cast for the office of mayor or member of the assembly, council or school board.

(b) A municipality may by ordinance require a majority vote for the election of a municipal official.

(c) Unless otherwise provided by ordinance, a runoff election shall be held within three weeks after the date of certification of the election for which a runoff is required and notice of the runoff election shall be published at least five days prior to the election date.

EXPLANATION: Under existing law a runoff election is required if no candidate receives over 40 percent of the votes cast for his office. This requirement has been altered to apply to certain offices only and liberalized to allow a municipality to provide otherwise by ordinance. The provisions specifying when a runoff must be held and notice requirements are no longer mandatory. In addition, the procedure set out in (c), for the benefit of a municipality which desires specific procedural guidance, has been changed to provide three weeks before the runoff is held rather than two. The additional time would enable cities within boroughs to coordinate their runoff elections.

Sec. 29.30.095. APPLICATION FOR PETITION. (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the bill to be initiated or the act to be referred and the address to which all correspondence relating to the application may be sent. An application shall be signed by at least ten municipal voters who will sponsor the petition. Other sponsors may be added at any time prior to filing the petition by submitting their names to the clerk. Within two weeks the clerk shall certify the application if he finds that it is in proper form and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.30.090;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition shall be subject to judicial review.

EXPLANATION: This is a new section. The first part is modeled after section two of the initiative article in the state constitution. Sponsors of a petition would be required to register with the clerk. The clerk would review an initiative for substantive legality, with his decision subject to immediate appeal. This allows for a judicial determination of the legality of an initiative prior to incurring the expense of an election on it.

Sec. 29.30.110. PETITION. (a) Within two weeks after certification of an application for petition, a petition shall be prepared by the municipal clerk. Each copy of the petition shall

(1) contain a summary of the bill to be initiated or the act to be referred;

(2) set out fully the ordinance or resolution sought to be initiated or referred;

(3) state the date on which the petition is issued by the clerk;

(4) contain notice that signatures must be secured within 60 days after the date the petition is issued;

(5) contain spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;

(6) contain a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) If a petition is composed of more than one page, each page shall contain the summary of the bill to be initiated or the act to be referred.

(c) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section would require the clerk to provide the petition forms to the petitioners to insure that they are complete and legible. This is similar to the requirement imposed upon the Lieutenant Governor in state initiative proceedings. The petition contents are essentially the same as those provided in present law, with a shortening of the petition circulation time from 90 to 60 days, some expansion of the information the signers must provide, and the addition of the circulator's affidavit.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.120. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 60 days after the clerk issues the petition. The statement provided under AS 29.30.110(a)(6) shall be completed and signed by the sponsor. Signatures shall be ink or indelible pencil.

(b) A petition shall be signed by a number of voters residing within the municipality based on the number of votes cast at the last regular election held on or prior to the date the petition was issued equal to

(1) 25 percent, when a municipality has fewer than 7,500 persons; or

(2) 15 percent, when a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION : The 60 day signature gathering period is carried forward. While the possibility of an initiative or referendum on a matter which affects only a service area is not eliminated, such petitions contain the same number of signatures as a petition on an areawide matter. Permitting a service area to initiate a matter on a service area basis is contrary to the concept of the service area being under the control of the entire legislative body. Additional changes require rejection of a signature not accompanied by a legible residence address and allow a signer to withdraw his name up until the time the petition is certified, whereas now he must withdraw within seven days after the petition is filed.

Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) All copies of a petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

(c) Within 10 days after a supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: The only significant change makes it clear that in providing supplementary signatures the sponsors have only 10 days to gather the signatures. They may not use signatures which were gathered prior to the first filing but not submitted, and they may not use signatures gathered during the period in which the clerk is checking the petition.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days after the certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If the assembly or council adopts substantially the same measure, the petition is void and the matter initiated shall not be placed before the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) If a majority vote favors the ordinance or resolution it becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution approved by the voters.

EXPLANATION: The changes allow for the submission of an initiative measure to the voters within 75 days after certification of a petition rather than requiring that the vote be delayed until the next regular election. The 45 day requirement was added to insure that a petition certified after the legal notices of a regular election were published does not complicate the election. Since the clerk determines whether the subject is within the restrictions and since this determination is subject to judicial review, the assembly or council no longer may reject a petition. An areawide vote is required whether the matter initiated is areawide or nonareawide because a service area should not be allowed to become autonomous.

Sec. 29.30.170. PRESENTATION OF REFERENDUM. (a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days of certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If a petition for referendum is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the assembly or council may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the assembly or council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective upon certification of the election.

EXPLANATION: The ability to suspend an ordinance or resolution which has taken effect when a petition is filed within 30 days of the passage of the ordinance or resolution has been deleted to avoid the apparent ability of a part of the voters to exercise a temporary repeal. The reference to amending a charter by initiative or referendum was deleted as that is covered under AS 29.13.080. All questions are submitted to an areawide vote.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.180. EFFECT. (a) An ordinance or resolution may not be repealed within one year of its effective date if adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed. The ordinance or resolution may be amended at any time.

(b) If an ordinance or resolution is repealed in a referendum election or by the assembly or council after a petition which contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the assembly or council for a period of one year.

(c) An unsuccessful initiative or referendum precludes the filing of a new petition application for substantially the same measure sooner than six months after the election results are certified.

EXPLANATION: Technical revisions and a change in (c) to accommodate the petition process.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.210. RECALL. (a) An official who is elected or appointed to an elective municipal office may be recalled by the voters after he has served six months of the term for which elected or appointed.

(b) This section applies to home rule and general law municipalities.

EXPLANATION: The possibility of recalling an official who has been appointed to an elective position has been added. The date to be used in determining when the six month period has run has been clarified.

(b) The grounds for recall shall be limited to
lack of fitness - incompetency ^{in respect to} ^{value} and execution.

change (2) to 2

Sec. 29.30.225. APPLICATION FOR RECALL PETITION. (a) An application for a recall petition shall be filed with the municipal clerk and shall contain

(1) the signature and residence addresses of at least 10 municipal voters who will sponsor the petition;

(2) the address to which all correspondence relating to the application may be sent;

(3) a statement in 200 words or less of the grounds of the recall stated with particularity.

(b) Additional sponsors may be added at any time prior to filing the petition by submitting their names to the clerk.

EXPLANATION: This is a new section which describes the requirements for an application for recall petition.

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, he shall prepare a recall petition. All copies of the petition shall contain

- (1) the name of the official sought to be recalled;
- (2) the statement of the grounds for recall as set forth in the application for petition;
- (3) the date the petition is issued by the clerk;
- (4) notice that signatures must be secured within 60 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;
- (6) a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section sets out requirements similar to those relating to the content of initiative and referendum petitions. Requiring the clerk to prepare the petition and supply copies insures that each copy is complete and legible. A petition must be filed within 60 days after the petition is issued rather than 60 days after the date of the earliest signature on the petition.

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.30.230(a)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by 35 percent of the voters residing within the municipality based on the number of votes cast at the last regular election for that office held prior to issuance of the petition. If a petition seeks to recall an official who represents a district, the petition shall be signed by 35 percent of the voters residing within the district based on the number of votes cast at the last regular election for that office held prior to issuance of the petition. The clerk shall determine the number of signatures required on a petition and shall inform each sponsor.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION: Which election to be used as a standard for determining the number of signatures required is clarified. The number of signatures required has been increased as compared to the number required for initiative and referendum because it is felt that recall is an especially disruptive process which should be more difficult to initiate. However, the signature requirement is based on the number who voted in a municipal rather than a state election. It is expected that this number will reflect a relatively low turnout, and therefore that it is not as difficult a requirement as may appear.

Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The copies of a petition shall be assembled and filed as a single instrument. Within ten days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition, which does not contain an adequate number of signatures, both valid and invalid, may not be supplemented and shall be rejected and filed as a public record.

(c) Within ten days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: Unlike the situation in initiative and recall, this section does not allow additional time for obtaining signatures when a petition is filed which does not have enough signatures even before any are disqualified. This keeps a petitioner from filing an insufficient petition to gain additional time to gather signatures. Once again, it is felt that in the case of a recall effort, the process ought not to be prolonged.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.260. NEW RECALL PETITION. The rejection of a recall petition for any reason does not preclude the filing of a new petition. However, a new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected.

EXPLANATION: Filing a new petition prior to the six month waiting period is prohibited even though the petition is rejected for a reason other than failure to obtain sufficient signatures. Under existing law, failure to obtain sufficient signatures alone triggers the waiting period.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the assembly or council, the assembly or council shall submit the recall at that election.

(b) If no regular election occurs within 75 days the assembly or council shall hold a special election on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the assembly or council.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question shall not be submitted to the voters. The assembly or council may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming him.

EXPLANATION: The 45 day requirement was added to insure that a petition submitted after the legal notices of a regular election were published would not complicate the election. Added in section (c) is the prohibition against the appointment of an official who resigns after a sufficient recall petition is filed.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.290. FORM OF RECALL BALLOT. A recall ballot shall contain

(1) the grounds as stated in 200 words or less on the recall petition;

(2) a statement by the official named on the recall petition of 200 words or less if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? YES () NO ()".

EXPLANATION: This section makes reference to the fact that each statement is limited to 200 words or less and provides that the statement of the official if published before the election will appear on the ballot.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.300. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular municipal election if the question is submitted at a regular election. Procedures for conducting a recall election are those of a special election if the question is submitted at a special election, except that at least 20 days notice shall be given notwithstanding an ordinance or charter provisions to the contrary.

EXPLANATION: This section was changed to provide for cases in which a recall election is held as a special election.

Sec. 29.30.330. SUCCESSORS. (a) If an official is recalled from the assembly or council, the assembly or council, by affirmative vote of a majority of the remaining members, may appoint a qualified person to fill a vacancy created by the recall.

(b) If all members of the assembly or council are recalled, the governor shall appoint at least three qualified persons to the assembly or council. The appointees shall, by an affirmative vote of the majority, appoint additional members to fill remaining vacancies.

(c) If all but two members of the assembly or council are recalled, each remaining member shall appoint a qualified person to fill a vacancy created by the recall. Additional persons may be appointed to fill vacancies by the affirmative vote of a majority of the remaining members and their appointees.

(d) If all officials are recalled from a school board the assembly or council may appoint a qualified person to fill a vacancy created by the recall.

(e) A person appointed under (a) - (d) of this section shall serve until a successor is elected and takes office.

(f) If an official is recalled the clerk, without further action by the assembly or council, shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date the recall election is certified, except that if a regular or special election occurs within 75 days after certification and the certification occurs at least 20 days prior to the last date upon which a first notice of the election must be published, the successor shall be chosen at that election.

(g) Nominations for a successor may be filed until seven days prior to the last date upon which a first notice of the election must be published. Nominations may not be filed before the certification of the recall election.

EXPLANATION: This section has been expanded to prevent a local government from having to attempt to operate without a quorum of elected officials. Subsections (f) and (g) were changed to take into account time periods required for election notice and nominations.