

SCOMM

#23:12

NAME

SENT TO:

DATE:

Suggestions

Title 29 Rev.

Wkg Grp. Sventsen

16 Sep 80

SUGGESTIONS - TITLE 29 REVISION

AS 29.08.

(Allan Tesche)

Adopt uniform definitions of "municipality", "borough", and use the terms consistently throughout the title.

010 Need to be better defined

AS 29.08.010

(Gerald L. Sharp)

(& 29.13.010 & 100, & 29.78.010(1)(2)(8) - 29.68.010

A careful reading of the code indicates that a unified unit of home rule local government is not a municipality. Under these sections, it is not a home rule municipality. If this was the intent, it should be clarified in the definitions. Along this same line, all sections which apply to home rule boroughs and home rule cities should be reviewed to determine whether they should also apply to unified units.

AS 29.08.020

(Gerald L. Sharp)

An interpretive guide should be provided for the the court so that it does not seize upon this section to revive Dillon's rule.

AS 29.13.100

(Richard W. Garnett, III)(Allan E. Tesche)

Clarify criteria for application of non-title 29 provisions to home rule, maybe require inclusion in laundry list.

AS 29.13.100

(Gerald L. Sharp)

The effect of the phrase "acting otherwise than as provided" should be examined to determine whether this phrase means that a home rule municipality may do neither more nor less than is prescribed for home rule municipalities. See the Whitson case.

AS 29.18.

(Richard W. Garnett, III)

Clarify rights to VUU land vis a vis state classification under AS 38.

AS 29.18.130

(Gerald L. Sharp)

We should probably address REAA's under this section.

AS 29.18.140(a)(b)

(Gerald L. Sharp)

This section implies that a newly incorporated city or borough may succeed a home rule or previously incorporated general law city or borough. Was this meant?

SUGGESTIONS - TITLE 29 REVISION

AS 29.18.180

(Gerald L. Sharp)

Organizational grants under this section appear to be inadequate.

AS 29.18.330

(Gerald L. Sharp)

The resident training and hire preference should be examined for constitutionality.

AS 29.23.025(e) (9)

(Marjorie Gorsuch)

Clarify what happens to the reapportionment order if a reapportionment ordinance has not been approved by the voters.

AS 29.23.029

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.031

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.040

(Gerald L. Sharp)

(et.seq.) The residency requirements, terms of officers, powers, duties, and the procedures for the changing of terms and qualifications of officers as these relate to the mayor, council, and assembly members should be uniform as between a city and a borough.

AS 29.23.050

(Allan E. Tesche)

The statutory residence requirement prescribed in this section is probably invalid. It is suggested that such residence requirements throughout AS 29 be reduced to a maximum of one year.

AS 29.23.060(a)

(Gerald L. Sharp)

This section implies that there may be no special meetings if any member is not notified.

AS 29.23.060(d)

(Gerald L. Sharp)

Some consideration should be give to reducing the quorum voting requirement by one vote for every two members of the body who are present who do not vote because they either have a conflict of interest or have been excused by the legislative body.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.060(d)

(Allan E. Tesche)

Circumstances, other than financial interests, which allow a member to abstain should be better defined.

AS 29.23.070

(Gerald L. Sharp)

This section seems to provide an unnecessary infringement of the chief administrator's prerogatives in appointing department heads.

33

AS 29.23.070 &

(City of St. Mary's)

(& 29.43.040) The mandatory language of this section should be permissive. The wisdom of comprehensive plans and complicated zoning requirements are still subject to professional debate and Cities should have the option to develop other methods of control.

AS 29.23.080

(Gerald L. Sharp)

This section should be checked to determine whether it tracks with the new procedures on reapportionment as it relates to council appointments and dual seats.

AS 29.23.080

(Allan E. Tesche)

The procedure for determining vacancies under this section conflicts with the procedure established under AS 29.23.570.

AS 29.23.130(B)

(Allan E. Tesche)

Once again, the three residency requirement in this section should probably be reduced to one year to assure its constitutional validity.

AS 29.23.150

(Allan E. Tesche)

(& 29.23.470) Both require assembly appointment of an acting borough manager in the absence of or disability of the manager. If these sections address different policy questions, they are unclear; if they do not, one should be eliminated as redundant.

AS 29.23.170

(Allan E. Tesche)

This provision does not specify when a veto becomes effective or specify any time limit for the overriding of the veto. Moreover, it does not indicate what is the status of an ordinance between the time its veto is announced and the time the Assembly first has an opportunity to override the veto.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.170(cont'd)

(Allan E. Tesche)

For instance, if the mayor vetos a line item in the budget, may expenditures be made under that item until the mayor announces the veto at the next regular assembly meeting, or does the veto immediately strike the item until the veto is overridden? *mayoral approval?*

AS 29.23.200

(Allan E. Tesche)

The three year residency requirement here is also probably invalid.

AS 29.23.210

(Gerald L. Sharp)

Does this require four votes on a procedural motion? This language should parallel the similar provisions for boroughs and both should be clarified as to whether there is a distinction between procedural and substantive motions. *why*

AS 29.23.210

(Allan E. Tesche)

As with the provisions for boroughs, this section should provide more definite standards for abstention on other than conflict of interest grounds.

AS 29.23.250

(Allan E. Tesche)

Another probably invalid three year residency requirement.

AS 29.23.270

(Allan E. Tesche)

This provision has the same ambiguities with regard to the effectiveness of a veto and a veto override as the provision applying to boroughs.

AS 29.23.310

(Gerald L. Sharp)

Reference within this section to repeal Section 100 should be corrected.

AS 29.23.340(d)

(Gerald L. Sharp)

Perhaps this section should be clarified to permit the board to set rates.

AS 29.23.360

(Gerald L. Sharp)

My question why there appears to be authority for the assembly or council to appoint administrative officers such as the treasurer and chief of police who do not serve the council or the assembly but must respond to the chief administrative officer.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.370

(Gerald L. Sharp)

I question whether there may not be a conflict of interest for an attorney to provide legal advice to both the legislative and administrative branches. Perhaps there should be a specific extension of the authority of the legislative body to retain its own legal counsel. Next, I question whether there isn't a conflict of interest for the clerk to service two different masters, the legislative body, and the chief administrator.

AS 29.23.395

(Gerald L. Sharp)

(Through .401) This sort of specific legislation ought to be deleted. If some sort of authority of this sort is required, it should be addressed in the general grant of powers.

AS 29.23.470

(Gerald L. Sharp)

I question why the manager has no authority to appoint a temporary or interim manager during his own temporary absence.

AS 29.23.480

(Gerald L. Sharp)

I suggest that the adoption of an ordinance at the very next meeting after the repeal of manager plan is expecting too much of any council or assembly considering the careful deliberation which should be given to the reorganization.

AS 29.23.540

(Gerald L. Sharp)

The seriousness of the conflict of interest which exists when an employee of the school board serves on the body which determines the school board's budget but is not lessened in any way by the existence of subsection (c) of this section. This section should be repealed. Also, it appears that this section would permit a person working in the grants section of the Department of C&RA to serve on an assembly or a council.

AS 29.23.555

(Allan E. Tesche)

This section has been superceded by AS 39.50.

AS 29.23.570

(City of St. Mary's)

This year the City had one councilman leave town without resigning before departure. The City needed to fill the vacancy quickly. None of the provisions of 29.23.570 were helpful. However, 29.23.200 provides that a councilman who ceases to be a city voter immediately forfeits his office. The Council used this provision to justify filling the vacancy immediately. This provision of section 23.200 should be included under section 23.570.

SUGGESTIONS - TITLE 29 REVISION

AS 29.25.110

(Richard W. Garnett, III) (Allan E. Tesche)

Clarify application of public records law to municipality.

AS 29.28.

(Bruce Aronson)

Once a sufficient petition has been accepted, members of the council should not be able to resign and be re-appointed to the council.

AS 29.28.

(Bruce Aronson)

Statutes should be clear that the local recall effort is based on the last regular municipal election for purposes of determining the number of signatures required on a petition.

AS 29.28.

(Bruce Aronson)

A transition period should be provided by statute to allow a person recalled to service for a while after the recall election has been certified to allow a government to continue to operate.

AS 29.28.015

(Gerald L. Sharp)

I question why the mayor in a manager-type municipality should not be permitted to be a member of the legislative body so long as he does not have the veto power. This seems to be something that should be left to local option.

AS 29.28.030

(Gerald L. Sharp)

It is not clear, under this section, how one deals with a person who has been present within the municipality for more than 30 days but who does not register with the State of Alaska until four days before the election. It appears they might be qualified to vote in the municipal election as they will certainly be qualified to vote in the next state election.

AS 29.28.040

(Richard W. Garnett, III)

More specificity as to whether recall may be based on "political" factors.

AS 29.28.070(b)

(Richard W. Garnett, III)

Service area initiatives are potential problems; could lead to "Balkanization" of municipalities.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.070(b)

(Richard W. Garnett, III) (Allan Tesche)

Standardize use of "general" and "regular" as to elections to avoid uncertainty as to required number of signatures.

AS 29.28.080(a)

(Gerald L. Sharp)

This section implies that the initiative ordinance or resolution must be something within the power of the assembly or council and must not fall within the restrictions of Section 60; however, it appears that the assembly or council may reject the initiative only if it is within the restrictions of Section 60. I also believe that this section should be tightened up to make it clear that the

AS 29.28.080(a) (cont'd)

(Gerald L. Sharp)

initiative process may not be used to take what are essentially administrative actions even though the assembly or council itself may take such actions by ordinance or resolution.

AS 29.28.090(b)

(Richard W. Garnett, III)

Not specifically provided that assembly may not immediately repeal ordinance enacted under threat of initiative.

AS 29.28.110

(Gerald L. Sharp)

This section establishes an observed public policy and should be modified to parallel the more liberal provisions which we find in our state constitution.

AS 29.28.130

(Bruce Aronson) (Lee Sharp)

Change provision so that all officials would be subject to recall after six months in office. The six month grace period would not apply if a person is re-elected to the same office.

AS 29.28.130

(Allan E. Tesche)

(Et. seq.) Statutory provisions governing recall contents do not clearly define signature requirements by distinguishing between at large and district forms of representation. AS 29.28.070(b) should be redrafted to state required percentages of votes cast for Assemblymen who are elected in districts and who are elected at large.

AS 29.28.140

(Bruce Aronson)

Grounds for recall are too narrow.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.140

(Gerald L. Sharp)

This section should be changed to make it clear that elected officials may not be recalled for the manner in which they exercised a duty, e.g., the way they vote on a particular issue, but that they can be recalled for having voted on an issue on which they are prohibited from voting. They could be recalled for refusing to vote when they had neither a conflict nor been excused from voting.

AS 29.28.140(cont'd)

(Gerald L. Sharp)

They could be recalled for failing to file a report required of individual public officials. They could not be recalled for having voted in favor of doing something prescribed by law nor could they be recalled for voting against doing something which is required by law.

AS 29.28.150

(Bruce Aronson) (Lee Sharp)

A recall petition should be required to contain the mailing address of each person who signs it and a separate petition should be filed for each person sought to be recalled. Statement of grounds should be limited to 200 words.

AS 29.28.160

(Gerald L. Sharp)

Either the clerk of the assembly or council should be given specific authority to review the petition for more than merely the superficial contents requirements. This determination should also go to whether or not the ground stated, if true, constitute grounds for repeal.

AS 29.28.170

(Gerald L. Sharp)

I question why petitioners should have an additional ten days to gather signatures. Why not give them 70 days to begin with or just cut them off at 60? If the petitioners cannot do some of the leg work themselves of determining how many valid signatures they have collected, there seems to be little in public policy to require they be give an additional ten days for their sloppiness or inadequate performance.

AS 29.28.180

(Bruce Aronson)

A new petition should not be filed sooner than six months after the original is rejected for insufficient content. However, the waiting period should not apply when a petition is rejected for lack of signatures.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.190

(Elsie O'Brien)

Add a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain.

AS 29.28.200(c)

(Gerald L. Sharp)

If a public official who is the subject of a sufficient recall petition resigns prior to the election, and his name is removed from the recall ballot, may he then be reappointed to his position by the remaining members prior to the recall election? May he be reappointed after the recall election?

AS 29.28.210

(Gerald L. Sharp)

If we permit one petition to contain more than one name, how should the names appear on the ballot, separately so that the voters may express their desires as to each public official individually or should there be a single ballot giving the voters the same choice which the petitioners gave the petition signers, i.e., all or none?

AS 29.28.250

(Jack Chenoweth)

Include a provision somewhere by which a state officer has authority to appoint municipal voters to fill elected city or borough offices when the number of members drops below the number required to produce a quorum.

AS 29.28.250

(Gerald L. Sharp)

What happens when an entire assembly, city council, or school board are recalled? There should be some mechanism for providing for an interim legislative body.

AS.29.33.

(Allan E. Tesche)

The current language of this chapter, as it incorporates a traditional definition of zoning and makes zoning along with platting the principal means of land use regulations, is unduly restrictive and should be revised to allow more innovative forms of land use regulation by boroughs and municipalities.

AS 29.33.

(Allan E. Tesche)

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.010

(Gerald L. Sharp)

Some place here, and perhaps other sections, we should deal with the almost impossible antitrust situation which the United States Supreme Court cast upon us in it's Lafayette decision.

AS 29.33.050

(Gerald L. Sharp)

While the section is drafted so that it uses parallel verbs, I believe the "establishes, maintains, and operates" phrase should be changed to read "and shall establish, maintain, and operate".

AS 29.33.070

(Allan E. Tesche)

It is unclear whether platting powers can be delegated to a second class borough or a city within the borough under this section.

AS 29.33.070

(Allan E. Tesche)

(Through 29.33.245) Serious thought should be given to the purpose of the planning, platting, and zoning provisions in this code. Should they only prescribe minimum due process standards for rezonings and other land use decisions or should they detail all of the administrative procedures to be followed by local governments in this area. This article presently tries to do little of both and does neither very well.

AS 29.33.080(e)

(Gerald L. Sharp)

Consideration should also be give here to reducing the majority vote requirement where there are two or more members of the commission who are present but do not vote because of a conflict of interest or because they have been excused by the remaining members.

AS 29.33.085(b)

(Gerald L. Sharp)

The requirement that the commission present new recommendations on a comprehensive plane very two years should be redrafted so that it does not appear that the continued validity of the zoning ordinance is dependent upon such a review and so that it does not appear that there is any question as to the validity of an ordinance which is adopted pursuant to a comprehensive plan which has not been reviewed for more than two years.

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.085(b)(cont'd)

(Gerald L. Sharp)

Also, it may not hurt to throw in some sort of language within the planning and zoning article to make it clear that the adoption of any zoning map change is a legislative and discretionary act and is not administrative as some state supreme courts seem to believe.

AS 29.33.110(b)(1)

(Gerald L. Sharp)

I strongly suggest that we not make the Board of Adjustment the board which hears appeals from building code enforcement actions. Some municipalities may prefer to place building code enforcement under some other department such as public works.

AS 29.33.110(b)(1)(cont'd)

(Gerald L. Sharp)

The authority of the Board of Adjustment to hear building code appeals should be optional with the municipality. Also, whether the assembly or council sits as the Board of Adjustment should also be optional with the municipality.

AS 29.33.110(b)(3)

(Gerald L. Sharp)

It is not clear what the phrase "which are not contrary to the public interest" modifies, "the zoning ordinance", or "requests...".

AS 29.33.120

(Gerald L. Sharp)

It appears that a person may file for a variance or conditional use, be denied that application, and yet proceed with the denied use if they appeal to the Board of Adjustment because the appeal, under the terms of this section, stays any enforcement where imminent peril is not involved.

AS 29.33.130(b)

(Gerald L. Sharp)

I question whether the legislature, and more particularly an assembly, has any authority to establish what the court may well consider as a procedural rule relating to establishing the time within which one may file an appeal to the superior court.

AS 29.33.150

(Gerald L. Sharp)

It might be wise to indicate in this section that the platting board has authority to require subdivision exactions.

How do rules & regs relate to subdivision ordinance

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.150(b)

(Gerald L. Sharp)

(& 29.33.169(c)) These sections need to be revised out of the code.

170(b) - can leg body limit boards right to grant waiver

AS 29.33.170(a)(1)

(Gerald L. Sharp)

I suggest it be made clear in here that adequate access does not include access over other privately owned land by way of an easement in favor of the applicant. Adequate access consists solely of access by dedicated or publicly owned ways.

AS 29.33.190

This section needs to be beefed up by incorporating administrative procedures to prevent the recording of instruments which create unlawful subdivisions.

AS 29.33.190

(Allan E. Tesche)

This section makes it unlawful for any person to sell or attempt to sell land located within a subdivision which has not yet been approved by the borough platting authority and subjects violators to certain criminal sanctions. But AS 29.53.100 requires that the borough assessor assess real property to "the owner of record as shown on the records of the district recorder" even

AS 29.33.190(cont'd)

(Allan E. Tesche)

though that person may be the owner of record by virtue of an illegal subdivision in violation of AS 29.33.190. Moreover, AS 29.53.310 allows persons holding security interest in illegally subdivided lands to obtain release for portions of lots or tracts originally subdivided even though such lands were illegally subdivided in violation of AS 29.33.190.

AS 29.33.200

(Gerald L. Sharp)

This section needs to be coordinated with the procedures under the condemnation sections of Title 9 which require the state to submit its property acquisitions in condemnation proceedings to the platting board.

resubdiv. of lot = replat?

AS 29.33.240

(Gerald L. Sharp)

I question why a second class city located outside an organized borough may obtain title to vacated ways if they intend to use the way for some other public purpose, while within an organized borough the property goes to the abutting owner. I also wonder why parks, greenbelts, and other areas which are vacated are split between abutting property owners while the title to a public square vests in a municipality upon vacation.

245 - administrative officer

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.250

(Allan E. Tesche)

Presumably the transfer required is one from all cities exercising the power rather than from a city.

service area of city inside

+ after borough has acquired non-annexable power

Also - if borough has non-annexable

AS 29.38.

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

AS 29.41.

(Bruce Aronson) (Lee Sharp)

Eliminate third class boroughs. Re-examine idea.

AS 29.48.

(Richard W. Garnett, III)

Consider need for APUC regulation of municipality owned utilities.

AS 29.48.010

(Gerald L. Sharp)

I question the need for such subsections as (1)(2)(3) and (5) as these all seem to relate to internal administrative matters which are clearly within the authority of the municipality. Some of these sound more like delegations of authority to a specific branch within the municipality. Also, I believe some consideration should be given to whether or not there should be a catch-all grant clause.

AS 29.48.010(cont'd)

Gerald L. Sharp

Also, something should or could be added to this section to clarify the authority of the municipality to establish and enforce liens for the collection of sales taxes. There might also be a section clearly authorizing the municipality to establish both minimum and non-suspendible penalties for violation of municipal ordinances.

AS 29.48.030

(Bruce Aronson)

There should be a clear statutory statement as to when a city rather than the state must provide local enforcement services and what type of enforcement services a city must provide.

AS 29.48.030

(Palmer McCarter)

Clarify whether "health and hospital power" is one or two separate local powers.

AS 29.48.030(b)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) These provisions are redundant. The limitations on the powers of second class boroughs should be stated in a more concise fashion in one easily accessible part of the code. Moreover, AS 29.48.030 and .35, inasmuch as those sections distinguish between "regulation" and provision of "municipal facilities and services", are at the very least confusing and perhaps unnecessary.

AS 29.48.030(b) (cont'd)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) Reference to powers granted to second class boroughs to construct and maintain Local Service Road and Trails under AS 19.30.251 should be made in this section. Reference to the power granted to local governments to regulate use of public streets, alleys, and other public places under AS 42.05.251 should be made in AS 29.48.035 or AS 29.48.020.

AS 29.48.030(a) (12)

(Allan E. Tesche)

The term transportation "system" used in this section should be defined.

AS 29.48.033

(Gerald L. Sharp)

Again, I do not have the 1980 legislation which effected state regulatory authority over cable television, transportation services, and garbage disposal but I believe what the legislature (industry) did should be carefully reviewed.

035 - first sentence of (a) should be general grant

AS 29.48.050

(Gerald L. Sharp)

I question whether there is any justified public policy behind requiring franchises to be granted by ordinance ratified by the voters. This has serious Lafayette antitrust implications. It seems that a public utility ought to be granted a permit so long as they can show public convenience and necessity.

AS 29.48.070

(Gerald L. Sharp)

(& 29.48.080 & 48.090) The idea of a council or assembly sitting through a protracted rate setting hearing is preposterous. Any hearing which the ordinary council or assembly would sit still through could not possibly adequate to justify a rate. Also, it is beyond me why the rates should be established by ordinance.

AS 29.48.100(b)

(Gerald L. Sharp)

Not only are the preceeding utility regulations outmoded, it seems ludicrous to have them apply to home rule municipalities.

AS 29.48.110

(Gerald L. Sharp)

AS 29.48.110 should be changed to make it clear that a municipality may establish more than a single historic district.

AS 29.48.130(5)

(Richard W. Garnett, III)

No need to require ordinance for routine fund transfers.

AS 29.48.150(a)

(Richard W. Garnett, III)

Majority required to set ordinance for hearing. Should be less.

AS 29.48.160(b)

(Gerald L. Sharp)

If the procedure for regulating utilities and granting franchises has changed, this section should probably also be changed to correspond.

AS 29.48.170

(Richard W. Garnett, III)

Need some procedure for enacting municipal regulations.

AS 29.48.190(b)

(Gerald L. Sharp)

This section seems to imply that a municipality may enter into an obligation to make payments in a future year if it does so by ordinance. If this happens, I think you have a debt which must have first been approved by the voters and before a capitol improvement.

AS 29.48.190

(City of St. Mary's)

Subsection (c) is unclear with respect to the procedures that must be followed to make transfer and supplemental appropriations. The language providing that no payment may be made except in accordance with appropriations may be troublesome in that it could be interpreted to give the City no leeway with respect to spending except through lengthy procedures to amend the budget.

AS 29.48.190 (cont'd)

(City of St. Mary's)

The suggested budget ordinance sent each year to municipalities by Community and Regional Affairs is more flexible and preferable but may not be legal under 29.48.190. This section should be changed to permit transfers without budget amendment if less than 10% or \$10,000 whichever is less of the original appropriation.

AS 29.48.200

(Gerald L. Sharp)

The fine limitation and imprisonment limitation both need to be raised. In addition, this may be the appropriate place to specifically authorize municipalities to establish both minimum fines and imprisonments and to provide clear authority for municipalities to make certain penalties non-suspendible.

AS 29.48.210

(Gerald L. Sharp)

This section is a good example of the need to carefully distinguish between boroughs and cities on the one hand and unified units on the other. In any event, I believe this section should be changed to permit the expenditure of areawide revenues on a non-areawide bases.

AS 29.48.220

(City of St. Mary's)

The audit requirement is burdensome for the City. As a first class city we are required to provide a certified audit of city finances. Second class cities need only submit certified financial statements prepared by the city bookkeeper. The City obtains little advantage and no tangible benefit from this requirement. The only people who review the audit are from DCRA. The audit requirement should not be tied to city class.

AS 29.48.220(cont'd)

(City of St. Mary's)

The audit requirement should not be tied to city class. Rather, the requirement should depend upon the size of the budget. It is the amount of money the city spends that justifies audits. Financial statements should be sufficient for cities with budgets less than one million.

AS 29.48.250

(Gerald L. Sharp)

Since our supreme court seems to believe that a borough may not require central purchasing to include a school district, this section does not appear to have much, if any need. It should be deleted, as I believe this power is already possessed by a municipality.

AS 29.48.260

(Richard W. Garnett, III)

Vote on sale of property over \$25,000 is unduly burdensome.

AS 29.48.260

(Gerald L. Sharp)

I believe the exemption which is set forth in (d) should be expanded to encompass any land which the municipality disposes of.

AS 29.48.260

(City of St. Mary's)

I consider this to be the most troublesome provision in Title 29 for rural communities. Through the Department of Community and Regional Affairs the City has requested an Attorney General's opinion on some of the requirements of this provision and has recently received a Community Legal Assistance Grant to determine the effect the statute has on land disposal in St. Mary's.

AS 29.48.260(cont'd)

(City of St. Mary's)

First the requirement of appraisals on land before disposal are difficult when most rural land is difficult if not impossible to appraise because comparable sales do not exist. Public auctions may cause the price of land to escalate beyond the means of local residents to afford, and may inhibit local residents who do not speak English from participating in auctions.

AS 29.48.260(cont'd)

(City of St. Mary's)

The words "if any" in subsection (c)(3) seem to indicate public auction or sealed bids are optional but this is not clear. Cities should have the option of developing disposal procedures appropriate to its locality. Such procedures should be ratified by the voters.

AS 29.48.260

(Allan E. Tesche)

Provisions of this section governing disposal of municipal properties should be clarified and revised to reflect increased land values throughout the state, to state who makes determinations of the value of land offered for sale and the date upon which such valuations must be based. Moreover, the statute should be clarified to either include or exclude rights-of-way or easements from its provisions.

AS 29.48.270(b)(c)

(Gerald L. Sharp)

These two sections do not seem to have anything to do with the catch line nor with the two remaining subsections. I am not sure why (b) is required in the first place unless it is to make the transfer of this one power optional rather than mandatory as required under AS 29.33.260. These two sections should be moved to a section dealing with a general grant of powers or with the transfer of powers.

AS 29.48.310

(Gerald L. Sharp)

(& 29.48.320, & 330) Although these sections seem to be very comprehensive, it appears that our courts prefer a contrary rule. Either we need to strengthen the language in these sections or we need to print up a Miranda Rights card which we can read to the judge every time we go into court over a municipal powers question.

AS 29.53.

(Allan E. Tesche)

Should be amended to require payment of all taxes, even those due for more recent assessments on properties whose owners have requested issue of a quitclaim repurchase deed. Present law mandates issue of a quitclaim repurchase deed to the owner of record upon payment of those taxes assessed for the tax year stated in the clerk's deed even though the same property is the subject of other foreclosure proceedings brought in subsequent years.

AS 29.53.(cont'd)

(Allan E. Tesche)

An amendment to AS 29.53 which would require payment of all taxes owing on a parcel before a quitclaim repurchase deed can be issued would eliminate substantial confusion in the minds of taxpayers, and would reduce administrative complexity for borough finance departments presently confronted with multiple foreclosure actions on the same parcels.

AS 29.53.010

(Richard W. Garnett, III)

Permit exemption of all personalty or of various classes.

AS 29.53.010

(Gerald L. Sharp)

Again the problem of how this is to apply to unified units of government; also, this section should be changed to permit the use of areawide revenues on a non-areawide bases.

AS 29.53.020

(Clara M. Eccles)

Extend property tax exemption to include disabled veterans of any age.

AS 29.53.020(a)(1)

(Gerald L. Sharp)

Some place in the code we need to deal with the method of valuing privately held interests in tax exempt property.

AS 29.53.020(a)(3)

(Gerald L. Sharp)

A number of problems arise from the lack of definitions of terms such as religious, charitable, educational, and perhaps hospital, which are used in this section. Also, there is a question which arises relating to when a property which is owned by, for example, a religious organization, becomes exempt;

AS 29.53.020(a)(3) (cont'd)

(Gerald L. Sharp)

for example, does vacant land become exempt when it is first purchased by an exempt organization, when the organization has an intent to devote it to a particular exempt use, when the organization commences construction of a facility which will be used for the exempt purpose even though during construction it is not being used for the exempt purpose? (b)(2)(B)

AS 29.53.025(b)(1)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.53.030

(Gerald L. Sharp)

This section should be revised to reflect a realistic value for mining claims, particularly in light of the recent rise in the price of gold.

AS 29.53.060

(Gerald L. Sharp)

Perhaps this is a section in which the valuation of leasehold and other possessory interest in tax exempt property should be exempt.

AS 29.53.080

(Ribert H. Ziegler, Sr.)

Assessors should not be allowed to have access to sale price of property by requesting this information from buyers or sellers.

AS 29.53.135

(Gerald L. Sharp)

This section should be clarified to indicate whether a majority of the number of members of the assembly. Also, either here or someplace else in the code, we should specifically address whether or not the Board of Equalization has the authority to determine whether property is exempt, and, if exempt, how much of the property is exempt if it is not totally devoted to exempt use.

AS 29.53.135

(Allan E. Tesche)

The language regarding the composition of the Board of Equalization is unclear. The statute presently requires "at least that number of members of the assembly over and above the number required for a quorum to transact business"; the statute is unclear when applied to a lay board to whom the equalization function is delegated.

AS 29.53.150

(Gerald L. Sharp)

A question arises as to whether property which goes from exempt property on January 1 of the tax year to non-exempt because of a change of use during the tax year can be put on a supplemental roll and taxed. Also, if it can be, should the taxes be a portion? In addition, something should be placed in the code to provide guidance for dealing with personal property which is in the municipality for only a part of the year.

AS 29.53.180

(Gerald L. Sharp)

This section should be changed to reflect a reasonable interest rate and a penalty which is substantially above the interest.

AS 29.53.415

(Gerald L. Sharp)

(& 29.53.440) Something needs to be added to these sections to take care of problem created by the Alaska Supreme Court when it ruled that there was no statutory authority for a general law municipality to establish a lead for sales taxes.

AS 29.58.

(Ben T. Delahay)

A new section should be added authorizing that an ordinance for refunding bonds be passed on one hearing, at either a regular or special meeting, and with only the normal majority vote.

AS 29.63.

(Ben T. Delahay)

The chapter on service areas should be clarified; there is too much authority in the assembly to handle decisions in the service area which should be made by the people paying the taxes in the area.

AS 29.63.

(Bruce Aronson)

Community councils should be advisory only by statute and money from the state for service areas ought to be appropriated for the city, not the local council.

AS 29.63.090(e)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.63.090

(Elsie O'Brien)

Loans by borough to service area should be subject to prior approval by voters within the service area.

AS 29.63.090

(Allan E. Tesche)

The present statute governing service areas does not adequately address the question of whether a service area may be used for exercise of a governmental regulatory power rather than for provision of municipal or services.

AS 29.68.

((Bruce Aronson)

Statutes should be changed so that cities are not able to annex territory without providing services to the annexed area and so that people living outside cities who are receiving services pay for them.

AS 29.68.010(cont d)

(City of St. Mary's)

The delay in time between the decision of the Local Boundary commission and the legislative disapproval time is unnecessary and can lead to legal complications. Since the legislature has never disapproved a Boundary Commission decision it seems this requirement of submission to the legislature has little utility. A workable alternative might be to preserve a right to appeal a boundary commission decision to the legislature.

AS 29.68.010

(City of St. Mary's)

The City recently annexed an adjacent community into its boundary. In order to facilitate the annexation the City wanted to and did make major concessions to the citizens of the adjacent community with respect to a voice in City affairs. Technically what the City has done is not legal because the annexation is not finalized until 45 days after the next legislative session has begun.

AS 29.73.020

(Gerald L. Sharp)

This section needs to be divided into two subsections to separate the procedures for home rule and general law municipalities from those for second class municipalities. Presently, there is some question as to whether the last two sentences of the section apply only to second class cities or whether it applies to all municipalities.

AS 29.78.101(16)

(Richard W. Garnett, III)

Definition of "subdivision"; consider application to division for leasing, as by holders of oil leases.

General Revision Suggestions - Title 29

AS 29

(Tanana Chiefs Conference, Inc.)

Do not create new forms of local government in the unorganized borough, but rather recognize the traditional governments currently operating.

(Tanana Chiefs Conference, Inc.)

Allow local government to contract for the providing of state services, so that programs can be administered locally.

(Tanana Chiefs Conference, Inc.)

Coordinated regional planning should be done by existing local governments on a voluntary basis through the formation of consortiums of existing governments. These would be allowed to jointly exercise authority outside of their local boundaries.

(Tanana Chiefs Conference, Inc.)

Reduce municipal liability by raising the standard of municipal tort liability for only those official acts involving, "wanton and willful" conduct rather than mere negligence. Municipal ordinances and regulations should be assimilated into state law to allow state prosecution of local violations.

(Tanana Chiefs Conference, Inc.)

Alternatives for fuller local participation in the unorganized borough in state action:

1. A community or consortium must agree to agency actions/plans affecting the community. In the absence of consent, the agency would have to show, in a locally neutral administrative hearing, that the best interest of the state requires the action/plan.
2. Communities or consortiums produce regional plans with which state agencies must comply or get a waiver from the community or proceed through a local neutral hearing.
3. Agencies could be required to have local plans/actions approved after a local hearing by a local hearing officer.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.

(Ernst Mueller)

[Also applicable to AS 46.07.020(2)] Replace the term "village" with "eligible rural community".

AS 29.

(David Dye, Planner III, C&RA)

Improve the index.

AS 29.

(Richard Careaga)

Consider replacing present local planning provisions with the Model Land Development Code (1975). Particularly consider the Code's division of responsibilities between state and local planning.

AS 29.

(Richard Careaga)

Tie other provisions located on other titles to Title 29, AS 46.35 in particular, if they impose obligations on local governments in addition to those set out in Title 29.

AS 29.

(Ivan Widom)

Reconsider the 40% runoff election and perhaps remove that requirement.

AS 29.

(Frederick McGinnis)

Allow for local administration of DHSS programs. See "Outline of Discussion Topic".

AS 29.08.

(Allan Tesche)

Adopt uniform definitions of "municipality", "borough", and use the terms consistently throughout the title.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.08.010

(Gerald L. Sharp)

(& 29.13.010 & 100, & 29.78.010(1)(2)(8)

A careful reading of the code indicates that a unified unit of home rule local government is not a municipality. Under these sections, it is not a home rule municipality. If this was the intent, it should be clarified in the definitions. Along this same line, all sections which apply to home rule boroughs and home rule cities should be reviewed to determine whether they should also apply to unified units.

AS 29.08.020

(Gerald L. Sharp)

An interpretive guide should be provided for the the court so that it does not seize upon this section to revive Dillon's rule.

AS 29.13.100

(Richard W. Garnett, III)(Allan E. Tesche)

Clarify criteria for application of non-title 29 provisions to home rule, maybe require inclusion in laundry list.

AS 29.13.100

(Gerald L. Sharp)

The effect of th phrase "acting otherwise than as provided" should be examined to determine whethr this phrase means that a home rule municipality may do neither more nor less than is prescribed for home rule municipalities. See the Whitson case.

AS 29.18.

(Richard W. Garnett, III)

Clarify rights to WU land vis a vis state classification under AS 38.

AS 29.18.

(David Dye, Planner III, C&RA)

Eliminate or restructure provisions dealing with development cities.

AS 29.18.130

(Gerald L. Sharp)

We should probably address REAA's under this section.

AS 29.18.140(a)(b)

(Gerald L. Sharp)

This section implies that a newly incorporated city or borough may succeed a home rule or previously incorporated general law city or borough. Was this meant?

AS 29.18.180

(Gerald L. Sharp)

Organizational grants under this section appear to be inadequate.

AS 29.18.330

(Gerald L. Sharp)

The resident training and hire preference should be examined for constitutionality.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.23.025(e) (9)

(Marjorie Gorsuch)

Clarify what happens to the reapportionment order if a reapportionment ordinance has not been approved by the voters.

AS 29.23.029

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.031

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.040

(Gerald L. Sharp)

(et.seq.) The residency requirements, terms of officers, powers, duties, and the procedures for the changing of terms and qualifications of officers as these relate to the mayor, council, and assembly members should be uniform as between a city and a borough.

AS 29.23.050

(Allan E. Tesche)

The statutory residence requirement prescribed in this section is probably invalid. It is suggested that such residence requirements throughout AS 29 be reduced to a maximum of one year.

AS 29.23.060(a)

(Gerald L. Sharp)

This section implies that there may be no special meetings if any member is not notified.

AS 29.23.060(d)

(Gerald L. Sharp)

Some consideration should be give to reducing the quorum voting requirement by one vote for every two members of the body who are present who do not vote because they either have a conflict of interest or have been excused by the legislative body.

AS 29.23.060(d)

(Allan E. Tesche)

Circumstances, other than financial interests, which allow a member to abstain should be better defined.

AS 29.23.070

(Gerald L. Sharp)

This section seems to provide an unnecessary infringement of the chief administrator's prerogatives in appointing department heads.

AS 29.23.070 &

(City of St. Mary's)

(& 29.43.040) The mandatory language of this section should be permissive. The wisdom of comprehensive plans and complicated zoning requirements are still subject to professional debate and Cities should have the option to develop other methods of control.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.23.080

(Gerald L. Sharp)

This section should be checked to determine whether it tracks with the new procedures on reapportionment as it relates to council appointments and dual seats.

AS 29.23.080

(Allan E. Tesche)

The procedure for determining vacancies under this section conflicts with the procedure established under AS 29.23.570.

AS 29.23.130(B)

(Allan E. Tesche)

Once again, the three residency requirement in this section should probably be reduced to one year to assure its constitutional validity.

AS 29.23.150

(Allan E. Tesche)

(& 29.23.470) Both require assembly appointment of an acting borough manager in the absence of or disability of the manager. If these sections address different policy questions, they are unclear; if they do not, one should be eliminated as redundant.

AS 29.23.170

(Allan E. Tesche)

This provision does not specify when a veto becomes effective or specify any time limit for the overriding of the veto. Moreover, it does not indicate what is the status of an ordinance between the time its veto is announced and the time the Assembly first has an opportunity to override the veto.

AS 29.23.170(cont'd)

(Allan E. Tesche)

For instance, if the mayor vetos a line item in the budget, may expenditures be made under that item until the mayor announces the veto at the next regular assembly meeting, or does the veto immediately strike the item until the veto is overridden?

AS 29.23.200

(Allan E. Tesche)

The three year residency requirement here is also probably invalid.

AS 29.23.210

(Gerald L. Sharp)

Does this require four votes on a procedural motion? This language should parallel the similar provisions for boroughs and both should be clarified as to whether there is a distinction between procedural and substantive motions.

AS 29.23.210

(Allan E. Tesche)

As with the provisions for boroughs, this section should provide more definite standards for abstention on other than conflict of interest grounds.

AS 29.23.250

(Allan E. Tesche)

Another probably invalid three year residency requirement.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.23.270

(Allan E. Tesche)

This provision has the same ambiguities with regard to the effectiveness of a veto and a veto override as the provision applying to boroughs.

AS 29.23.310

(Gerald L. Sharp)

Reference within this section to repeal Section 100 should be corrected.

AS 29.23.340(d)

(Gerald L. Sharp)

Perhaps this section should be clarified to permit the board to set rates.

AS 29.23.360

(Gerald L. Sharp)

My question why there appears to be authority for the assembly or council to appoint administrative officers such as the treasurer and chief of police who do not serve the council or the assembly but must respond to the chief administrative officer.

AS 29.23.370

(Gerald L. Sharp)

I question whether there may not be a conflict of interest for an attorney to provide legal advice to both the legislative and administrative branches. Perhaps there should be a specific extension of the authority of the legislative body to retain its own legal counsel. Next, I question whether there isn't a conflict of interest for the clerk to serve two different masters, the legislative body, and the chief administrator.

AS 29.23.395

(Gerald L. Sharp)

(Through .401) This sort of specific legislation ought to be deleted. If some sort of authority of this sort is required, it should be addressed in the general grant of powers.

AS 29.23.470

(Gerald L. Sharp)

I question why the manager has no authority to appoint a temporary or interim manager during his own temporary absence.

AS 29.23.480

(Gerald L. Sharp)

I suggest that the adoption of an ordinance at the very next meeting after the repeal of manager plan is expecting too much of any council or assembly considering the careful deliberation which should be given to the reorganization.

AS 29.23.540

(Gerald L. Sharp)

The seriousness of the conflict of interest which exists when an employee of the school board serves on the body which determines the school board's budget but is not lessened in any way by the existence of subsection (c) of this section. This section should be repealed. Also, it appears that this section would permit a person working in the grants section of the Department of C&RA to serve on an assembly or a council.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/83

AS 29.23.555

(Allan E. Tesche)

This section has been superceded by AS 39.50.

AS 29.23.570

(City of St. Mary's)

This year the City had one councilman leave town without resigning before departure. The City needed to fill the vacancy quickly. None of the provisions of 29.23.570 were helpful. However, 29.23.200 provides that a councilman who ceases to be a city voter immediately forfeits his office. The Council used this provision to justify filling the vacancy immediately. This provision of section 23.200 should be included under section 23.570.

AS 29.25.110

(Richard W. Garnett, III) (Allan E. Tesche)

Clarify application of public records law to municipality.

AS 29.28.

(Bruce Aronson)

Once a sufficient petition has been accepted, members of the council should not be able to resign and be re-appointed to the council.

AS 29.28.

(Bruce Aronson)

Statutes should be clear that the local recall effort is based on the last regular municipal election for purposes of determining the number of signatures required on a petition.

AS 29.28.

(Bruce Aronson)

A transition period should be provided by statute to allow a person recalled to service for a while after the recall election has been certified to allow a government to continue to operate.

AS 29.28.015

(Gerald L. Sharp)

I question why the mayor in a manager-type municipality should not be permitted to be a member of the legislative body so long as he does not have the veto power. This seems to be something that should be left to local option.

AS 29.28.030

(Gerald L. Sharp)

It is not clear, under this section, how one deals with a person who has been present within the municipality for more than 30 days but who does not register with the State of Alaska until four days before the election. It appears they might be qualified to vote in the municipal election as they will certainly be qualified to vote in the next state election.

AS 29.28.040

(Richard W. Garnett, III)

More specificity as to whether recall may be based on "political" factors.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.28.070(b)

(Richard W. Garnett, III)

Service area initiatives are potential problems; could lead to "Balkanization" of municipalities.

AS 29.28.070(b)

(Richard W. Garnett, III) (Allan Tesche)

Standardize use of "general" and "regular" as to elections to avoid uncertainty as to required number of signatures.

AS 29.28.080(a)

(Gerald L. Sharp)

This section implies that the initiative ordinance or resolution must be something within the power of the assembly or council and must not fall within the restrictions of Section 60; however, it appears that the assembly or council may reject the initiative only if it is within the restrictions of Section 60. I also believe that this section should be tightened up to make it clear that the

AS 29.28.080(a) (cont'd)

(Gerald L. Sharp)

initiative process may not be used to take what are essentially administrative actions even though the assembly or council itself may take such actions by ordinance or resolution.

AS 29.28.090(b)

(Richard W. Garnett, III)

Not specifically provided that assembly may not immediately repeal ordinance enacted under threat of initiative.

AS 29.28.110

(Gerald L. Sharp)

This section establishes an observed public policy and should be modified to parallel the more liberal provisions which we find in our state constitution.

AS 29.28.130

(Bruce Aronson) (Lee Sharp)

Change provision so that all officials would be subject to recall after six months in office. The six month grace period would not apply if a person is re-elected to the same office.

AS 29.28.130

(Allan E. Tesche)

(Et. seq.) Statutory provisions governing recall contents do not clearly define signature requirements by distinguishing between at large and district forms of representation. AS 29.28.070(b) should be redrafted to state required percentages of votes cast for Assemblymen who are elected in districts and who are elected at large.

AS 29.28.140

(Bruce Aronson)

Grounds for recall are too narrow.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.28.140

(Gerald L. Sharp)

This section should be changed to make it clear that elected officials may not be recalled for the manner in which they exercised a duty, e.g., the way they vote on a particular issue, but that they can be recalled for having voted on an issue on which they are prohibited from voting. They could be recalled for refusing to vote when they had neither a conflict nor been excused from voting.

AS 29.28.140 (cont'd)

(Gerald L. Sharp)

They could be recalled for failing to file a report required of individual public officials. They could not be recalled for having voted in favor of doing something prescribed by law nor could they be recalled for voting against doing something which is required by law.

AS 29.28.140

(JoAnne Shanley)

There could be an argument made for consistency between this section and AS 15.45.510 which provides the grounds for recall of state officials.

AS 29.28.150

(Bruce Aronson) (Lee Sharp)

A recall petition should be required to contain the mailing address of each person who signs it and a separate petition should be filed for each person sought to be recalled. Statement of grounds should be limited to 200 words.

AS 29.28.150

(JoAnne Shanley)

This section should be rewritten to include a requirement of the name and office of the person (singular) to be recalled and a clarification that if more than one official is considered for recall a petition for each individual must be circulated.

AS 29.28.160

(Gerald L. Sharp)

Either the clerk of the assembly or council should be given specific authority to review the petition for more than merely the superficial contents requirements. This determination should also go to whether or not the ground stated, if true, constitute grounds for repeal.

AS 29.28.170

(Gerald L. Sharp)

I question why petitioners should have an additional ten days to gather signatures. Why not give them 70 days to begin with or just cut them off at 60? If the petitioners cannot do some of the leg work themselves of determining how many valid signatures they have collected, there seems to be little in public policy to require they be give an additional ten days for their sloppiness or inadequate performance.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.28.180

(Bruce Aronson)

A new petition should not be filed sooner than six months after the original is rejected for insufficient content. However, the waiting period should not apply when a petition is rejected for lack of signatures.

AS 29.28.190

(Elsie O'Brien)

Add a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain.

AS 29.28.190

(JoAnne Shanley)

The present wording is too vague with the use of the word "immediately" and should specify a specific time frame, i.e. 10 days.

AS 29.28.200(c)

(Gerald L. Sharp)

If a public official who is the subject of a sufficient recall petition resigns prior to the election, and his name is removed from the recall ballot, may he then be reappointed to his position by the remaining members prior to the recall election? May he be reappointed after the recall election?

AS 29.28.210

(Gerald L. Sharp)

If we permit one petition to contain more than one name, how should the names appear on the ballot, separately so that the voters may express their desires as to each public official individually or should there be a single ballot giving the voters the same choice which the petitioners gave the petition signers, i.e., all or none?

AS 29.28.250

(Jack Chenoweth)

Include a provision somewhere by which a state officer has authority to appoint municipal voters to fill elected city or borough offices when the number of members drops below the number required to produce a quorum.

AS 29.28.250

(Gerald L. Sharp)

What happens when an entire assembly, city council, or school board are recalled? There should be some mechanism for providing for an interim legislative body.

AS.29.33.

(Allan E. Tesche)

The current language of this chapter, as it incorporates a traditional definition of zoning and makes zoning along with platting the principal means of land use regulations, is unduly restrictive and should be revised to allow more innovative forms of land use regulation by boroughs and municipalities.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.33.

(Allan E. Tesche)

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

AS 29.33.

(Ivan Widom)

Boroughs have too much power. A borough should not plan for a city.

AS 29.33.010

(Gerald L. Sharp)

Some place here, and perhaps other sections, we should deal with the almost impossible antitrust situation which the United States Supreme Court cast upon us in it's Lafayette decision.

AS 29.33.050

(Gerald L. Sharp)

While the section is drafted so that it uses parallel verbs, I believe the "establishes, maintains, and operates" phrase should be changed to read "and shall establish, maintain, and operate".

AS 29.33.070

(Allan E. Tesche)

It is unclear whether platting powers can be delegated to a second class borough or a city within the borough under this section.

AS 29.33.070

(Allan E. Tesche)

(Through 29.33.245) Serious thought should be given to the purpose of the planning, platting, and zoning provisions in this code. Should they only prescribe minimum due process standards for rezonings and other land use decisions or should they detail all of the administrative procedures to be followed by local governments in this area. This article presently tries to do little of both and does neither very well.

AS 29.33.070(b)

(JoAnne Shanley)

Redraft to read: If a first class or home city is located more than 25 miles from the boundary of the borough seat, the planning, platting and zoning responsibilities within the city may be exercised by the city after a city ordinances providing for the exercise thereof is approved by a majority of the electors within the city voting on the question at a regular or special election or by council ordinance.

AS 29.33.070(b)(2)

(David Dye, Planner III, C&RA)

Do not allow a borough to delegate planning authority to a city, but allow only the delegation of administrative and enforcement responsibilities.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.33.080(e)

(Gerald L. Sharp)

Consideration should also be give here to reducing the majority vote requirement where there are two or more members of the commission who are present but do not vote because of a conflict of interest or because they have been excused by the remaining members.

AS 29.33.080(f)

(David Dye, Planner III, C&RA)

Require the assembly to adopt rules and regulations by ordinance. In the alternative, add a section requiring regulations of all municipal boards, commissions, and departments to be codified and published.

AS 29.33.080(b) (4)

(David Dye, Planner III, C&RA)

Define the term "official map".

AS 29 33.085(b)

(Gerald L. Sharp)

The requirement that the commission present new recommendations on a comprehensive plane very two years should be redrafted so that it does not appear that the continued validity of the zoning ordinance is dependent upon such a review and so that it does not appear that there is any question as to the validity of an ordinance which is adopted pursuant to a comprehensive plan which has not been reviewed for more than two years.

AS 29.33.085(b) (cont'd)

(Gerald L. Sharp)

Also, it may not hurt to throw in some sort of language within the planning and zoning article to make it clear that the adoption of any zoning map change is a legislative and discretionary act and is not administrative as some state supreme courts seem to believe.

AS 29.33.090

(David Dye, Planner III, C&RA)

Eliminate the use of the term "zoning" and use "land use regulation". Add enabling legislation for the transfer of development rights.

AS 29.33.110(b) (1)

(Gerald L. Sharp)

I strongly suggest that we not make the Board of Adjustment the board which hears appeals from building code enforcement actions. Some municipalities may prefer to place building code enforcement under some other department such as public works.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.33.110(b)(1)(cont'd)

(Gerald L. Sharp)

The authority of the Board of Adjustment to hear building code appeals should be optional with the municipality. Also, whether the assembly or council sits as the Board of Adjustment should also be optional with the municipality.

AS 29.33.110(b)(3)

(Gerald L. Sharp)

It is not clear what the phrase "which are not contrary to the public interest" modifies, "the zoning ordinance", or "requests...".

AS 29.33.120

(Gerald L. Sharp)

It appears that a person may file for a variance or conditional use, be denied that application, and yet proceed with the denied use if they appeal to the Board of Adjustment because the appeal, under the terms of this section, stays any enforcement where imminent peril is not involved.

AS 29.33.130(b)

(Gerald L. Sharp)

I question whether the legislature, and more particularly an assembly, has any authority to establish what the court may well consider as a procedural rule relating to establishing the time within which one may file an appeal to the superior court.

AS 29.33.150

(Gerald L. Sharp)

It might be wise to indicate in this section that the platting board has authority to require subdivision exactions.

AS 29.33.150(b)

(Gerald L. Sharp)

(& 29.33.169(c)) These sections need to be revised out of the code.

AS 29.33.150(a)

(David Dye, Planner III, C&RA)

Explicitly state that all subdivisions are required to be platted and that plats must be recorded. Integrate AS 40.15 into Title 29.

AS 29.33.170

(David Dye, Planner III, C&RA)

Modify waiver provisions and add authority for short subdivisions. See model provision.

AS 29.33.170(a)(1)

(Gerald L. Sharp)

I suggest it be made clear in here that adequate access does not include access over other privately owned land by way of an easement in favor of the applicant. Adequate access consists solely of access by dedicated or publicly owned ways.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.33.190

This section needs to be beefed up by incorporating administrative procedures to prevent the recording of instruments which create unlawful subdivisions.

AS 29.33.190

(Allan E. Tesche)

This section makes it unlawful for any person to sell or attempt to sell land located within a subdivision which has not yet been approved by the borough platting authority and subjects violators to certain criminal sanctions. But AS 29.53.100 requires that the borough assessor assess real property to "the owner of record as shown on the records of the district recorder" even

AS 29.33.190(cont'd)

(Allan E. Tesche)

though that person may be the owner of record by virtue of an illegal subdivision in violation of AS 29.33.190. Moreover, AS 29.53.310 allows persons holding security interest in illegally subdivided lands to obtain release for portions of lots or tracts originally subdivided even though such lands were illegally subdivided in violation of AS 29.33.190.

AS 29.33.200

(Gerald L. Sharp)

This section needs to be coordinated with the procedures under the condemnation sections of Title 9 which require the state to submit its property acquisitions in condemnation proceedings to the platting board.

AS 29.33.240

(Gerald L. Sharp)

I question why a second class city located outside an organized borough may obtain title to vacated ways if they intend to use the way for some other public purpose, while within an organized borough the property goes to the abutting owner. I also wonder why parks, greenbelts, and other areas which are vacated are split between abutting property owners while the title to a public square vests in a municipality upon vacation.

AS 29.33.250

(Allan E. Tesche)

Presumably the transfer required is one from all cities exercising the power rather than from a city.

AS 29.38.

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

AS 29.41.

(Bruce Aronson) (Lee Sharp)

Eliminate third class boroughs. Re-examine idea.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.41.

(David Dye)

Specifically include or exclude all or part of the provisions of AS 29.48., especially 29.48.010 and 29.48.260.

AS 29.48.

(Richard W. Garnett, III)

Consider need for APUC regulation of municipality owned utilities.

AS 29.48.

(David Dye, Planner III, C&RA)

Add a new section allowing preferences in land being disposed of to individuals to certain classes of people (heads of household, non-owners of real property) to avoid the use of durational residency requirements. Allow a preference for people who have occupied land after December 18, 1971. See proposed draft.

AS 29.48.010

(Gerald L. Sharp)

I question the need for such subsections as (1)(2)(3) and (5) as these all seem to relate to internal administrative matters which are clearly within the authority of the municipality. Some of these sound more like delegations of authority to a specific branch within the municipality. Also, I believe some consideration should be given to whether or not there should be a catch-all grant clause.

AS 29.48.010(cont'd)

Gerald L. Sharp

Also, something should or could be added to this section to clarify the authority of the municipality to establish and enforce liens for the collection of sales taxes. There might also be a section clearly authorizing the municipality to establish both minimum and non-suspendible penalties for violation of municipal ordinances.

AS 29.48.010(9)

(David Dye, Planner III, C&RA)

Rewrite to provide procedural safeguards (the action be done by ordinance). Allow for land exchanges between municipalities and private persons. Under ANSCA, municipalities will receive land for future municipal expansion, but some municipalities will not be able to select land which is near the municipality because land is not available. It would be advantageous to allow for exchange of inconveniently located parcels.

AS 29.48.020

(David Dye, Planner III, C&RA)

This section should be placed in another chapter. It does not deal with "Powers Applicable to All Municipalities".

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.030

(Bruce Aronson)

There should be a clear statutory statement as to when a city rather than the state must provide local enforcement services and what type of enforcement services a city must provide.

AS 29.48.030

(Palmer McCarter)

Clarify whether "health and hospital power" is one or two separate local powers.

AS 29.48.030

(Gerald L. Sharp)

This may be the appropriate section to deal with the Lafayette antitrust problems. Under subsection (b), someone to check to determine whether the reference to the Alaska Transportation Commission makes sense in the light of SB 577. (Sorry, I do not have the bill with me as I dictate this.)

AS 29.48.030(b)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) These provisions are redundant. The limitations on the powers of second class boroughs should be stated in a more concise fashion in one easily accessible part of the code. Moreover, AS 29.48.030 and .35, inasmuch as those sections distinguish between "regulation" and provision of "municipal facilities and services", are at the very least confusing and perhaps unnecessary.

AS 29.48.030(b) (cont'd)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) Reference to powers granted to second class boroughs to construct and maintain Local Service Road and Trails under AS 19.30.251 should be made in this section. Reference to the power granted to local governments to regulate use of public streets, alleys, and other public places under AS 42.05.251 should be made in AS 29.48.035 or AS 29.48.020.

AS 29.48.030(a)(12)

(Allan E. Tesche)

The term transportation "system" used in this section should be defined.

AS 29.48.033

(Gerald L. Sharp)

Again, I do not have the 1980 legislation which effected state regulatory authority over cable television, transportation services, and garbage disposal but I believe what the legislature (industry) did should be carefully reviewed.

AS 29.48.035(14)

(JoAnne Shanley)

"building, housing and related codes, which may be provided by cities within cities..." needs rewording (cities within its own boundaries?)

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.037

(JoAnne Shanley)

(b) states that a city can protect its watersheds and enforce such protection outside its boundaries ONLY upon the approval, by ordinance, of the municipality where the watersheds are located. This poses a problem when a city tries to exercise the protection of its water supply which lies outside the city limits but within the organized borough and where the borough is not actively involved in any such protection but refuses to allow the city to exercise such.

AS 29.48.037(cont'd)

(JoAnne Shanley)

If a borough has, in effect, veto power over the city's action in this regard, the borough government should be required to be actively involved in the exercise of such protected activity itself.

AS 29.48.050

(Gerald L. Sharp)

I question whether there is any justified public policy behind requiring franchises to be granted by ordinance ratified by the voters. This has serious Lafayette antitrust implications. It seems that a public utility ought to be granted a permit so long as they can show public convenience and necessity.

AS 29.48.050(d)

(JoAnne Shanley)

Redraft to read: For purposes of AS 29.48.050 - .070 a public utility which is not regulated as to rates and services by the Alaska Public Utilities Commission shall not be considered as regulated by AS 42.05.

AS 29.48.070

(Gerald L. Sharp)

(& 29.48.080 & 48.090) The idea of a council or assembly sitting through a protracted rate setting hearing is preposterous. Any hearing which the ordinary council or assembly would sit still through could not possibly adequate to justify a rate. Also, it is beyond me why the rates should be established by ordinance.

AS 29.48.100(b)

(Gerald L. Sharp)

Not only are the preceeding utility regulations outmoded, it seems ludicrous to have them apply to home rule municipalities.

AS 29.48.110

(Gerald L. Sharp)

AS 29.48.110 should be changed to make it clear that a municipality may establish more than a single historic district.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.130(5)

(Richard W. Garnett, III)

No need to require ordinance for routine fund transfers.

AS 29.48.150(a)

(Richard W. Garnett, III)

Majority required to set ordinance for hearing. Should be less.

AS 29.48.150

(Ivan Widom)

Clarify the number of times an ordinance should be voted upon.

AS 29.48.160(b)

(Gerald L. Sharp)

If the procedure for regulating utilities and granting franchises has changed, this section should probably also be changed to correspond.

AS 29.48.170

(Richard W. Garnett, III)

Need some procedure for enacting municipal regulations.

AS 29.48.190(b)

(Gerald L. Sharp)

This section seems to imply that a municipality may enter into an obligation to make payments in a future year if it does so by ordinance. If this happens, I think you have a debt which must have first been approved by the voters and before a capitol improvement.

AS 29.48.190

(City of St. Mary's)

Subsection (c) is unclear with respect to the procedures that must be followed to make transfer and supplemental appropriations. The language providing that no payment may be made except in accordance with appropriations may be troublesome in that it could be interpreted to give the City no leeway with respect to spending except through lengthy procedures to amend the budget.

AS 29.48.190 (cont'd)

(City of St. Mary's)

The suggested budget ordinance sent each year to municipalities by Community and Regional Affairs is more flexible and preferable but may not be legal under 29.48.190. This section should be changed to permit transfers without budget amendment if less than 10% or \$10,000 whichever is less of the original appropriation.

AS 29.48.200

(Gerald L. Sharp)

The fine limitation and imprisonment limitation both need to be raised. In addition, this may be the appropriate place to specifically authorize municipalities to establish both minimum fines and imprisonments and to provide clear authority for municipalities to make certain penalties non-suspendible.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.210

(Gerald L. Sharp)

This section is a good example of the need to carefully distinguish between boroughs and cities on the one hand and unified units on the other. In any event, I believe this section should be changed to permit the expenditure of areawide revenues on a non-areawide bases.

AS 29.48.220

(City of St. Mary's)

The audit requirement is burdensome for the City. As a first class city we are required to provide a certified audit of city finances. Second class cities need only submit certified financial statements prepared by the city bookkeeper. The City obtains little advantage and no tangible benefit from this requirement. The only people who review the audit are from DCRA. The audit requirement should not be tied to city class.

AS 29.48.220(cont'd)

(City of St. Mary's)

The audit requirement should not be tied to city class. Rather, the requirement should depend upon the size of the budget. It is the amount of money the city spends that justifies audits. Financial statements should be sufficient for cities with budgets less than one million.

AS 29.48.250

(Gerald L. Sharp)

Since our supreme court seems to believe that a borough may not require central purchasing to include a school district, this section does not appear to have much, if any need. It should be deleted, as I believe this power is already possessed by a municipality.

AS 29.48.260

(Richard W. Garnett, III)

Vote on sale of property over \$25,000 is unduly burdensome.

AS 29.48.260

(Gerald L. Sharp)

I believe the exemption which is set forth in (d) should be expanded to encompass any land which the municipality disposes of.

AS 29.48.260

(City of St. Mary's)

I consider this to be the most troublesome provision in Title 29 for rural communities. Through the Department of Community and Regional Affairs the City has requested an Attorney General's opinion on some of the requirements of this provision and has recently received a Community Legal Assistance Grant to determine the effect the statute has on land disposal in St. Mary's.

AS 29.48.260(cont'd)

(City of St. Mary's)

First the requirement of appraisals on land before disposal are difficult when most rural land is difficult if not impossible to appraise because comparable sales do not exist. Public auctions may cause the price of land to escalate beyond the means of local residents to afford, and may inhibit local residents who do not speak English from participating in auctions.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.260(cont'd)

(City of St. Mary's)

The words "if any" in subsection (c)(3) seem to indicate public auction or sealed bids are optional but this is not clear. Cities should have the option of developing disposal procedures appropriate to its locality. Such procedures should be ratified by the voters.

AS 29.48.260

(Allan E. Tesche)

Provisions of this section governing disposal of municipal properties should be clarified and revised to reflect increased land values throughout the state, to state who makes determinations of the value of land offered for sale and the date upon which such valuations must be based. Moreover, the statute should be clarified to either include or exclude rights-of-way or easements from its provisions.

AS 29.48.260(a)

(David Dye)

The term "municipal purpose" should be defined or standards for determining when land is no longer required for municipal purposes should be added.

AS 29.48.260(c)

(David Dye, Planner III, C&RA)

Add authority for disposal by lottery of land. Increase the \$25,000.00 figure by two to four times.

AS 29.48.260(d)

(David Dye, Planner III, C&RA)

Rewrite to exempt transfers of land for specific purposes regardless of the source of the land.

AS 29.48.260(e)

(David Dye, Planner III, C&RA)

Exclude these transactions for the requirements of (c).

AS 29.48.270(b)(c)

(Gerald L. Sharp)

These two sections do not seem to have anything to do with the catch line nor with the two remaining subsections. I am not sure why (b) is required in the first place unless it is to make the transfer of this one power optional rather than mandatory as required under AS 29.33.260. These two sections should be moved to a section dealing with a general grant of powers or with the transfer of powers.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.48.310

(Gerald L. Sharp)

(& 29.48.320, & 330) Although these sections seem to be very comprehensive, it appears that our courts prefer a contrary rule. Either we need to strengthen the language in these sections or we need to print up a Miranda Rights card which we can read to the judge every time we go into court over a municipal powers question.

AS 29.53.

(Allan E. Tesche)

Should be amended to require payment of all taxes, even those due for more recent assessments on properties whose owners have requested issue of a quitclaim repurchase deed. Present law mandates issue of a quitclaim repurchase deed to the owner of record upon payment of those taxes assessed for the tax year stated in the clerk's deed even though the same property is the subject of other foreclosure proceedings brought in subsequent years.

AS 29.53. (cont'd)

(Allan E. Tesche)

An amendment to AS 29.53 which would require payment of all taxes owing on a parcel before a quitclaim repurchase deed can be issued would eliminate substantial confusion in the minds of taxpayers, and would reduce administrative complexity for borough finance departments presently confronted with multiple foreclosure actions on the same parcels.

AS 29.53.

(Terry Earley, State Assessor)

Add a section requiring the Department of Community and Regional Affairs, in consultation with an assessor, to determine the full value of taxable property in each district. See proposed bill draft.

AS 29.53.

(Dave Braden, Assessor)

Add a section requiring confidentiality of information gathered for assessment purposes should be added. See sample statutes.

AS 29.53.

(Dave Braden, Assessor)

Assess exempt property used by a non-exempt person. See sample Michigan law.

AS 29.53.

(Michael Worley, Assessor)

Add a section allowing the assessment roll to be corrected by the assessor and an adjustment made subsequent to its certification.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.53.010

(Richard W. Garnett, III)

Permit exemption of all personalty or of various classes.

AS 29.53.010

(Gerald L. Sharp)

Again the problem of how this is to apply to unified units of government: also, this section should be changed to permit the use of areawide revenues on a non-areawide bases.

AS 29.53.020

(Clara M. Eccles)

Extend property tax exemption to include disabled veterans of any age.

AS 29.53.020

(Terry Earley, State Assessor)

Exempt one motor vehicle owned by a resident 65 years of age or older from taxation. See proposed bill draft.

AS 29.53.020

(Dave Braden, Assessor)

It is logical that reimbursement be limited to that amount which exceeds a local exemption granted to senior citizens, but to extend it to a local exemption that if applied for "would have been granted" is too much. Mobile homes should not be taxed as real property, but should be licensed like motor vehicles at which time an ownership tax is charged.

AS 29.53.020(c)

(Michael Worley, Assessor)

Delete "educational groups for classroom space".

AS 29.53.020(f)

(Michael Worley, Assessor)

After "granted" on the first line insert a reference "under (e) of this section".

AS 29.53.020

(Mark Lewis, City Manager, Valdez)

Change the age limit for qualifying for the senior tax exemption to 62 to encourage people to retire earlier.

AS 29.53.020(a)(1)

(Gerald L. Sharp)

Some place in the code we need to deal with the method of valuing privately held interests in tax exempt property.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.53.020(a) (2)

(Michael Worley, Assessor)

Delete \$500.00 limitation on the exemption of household furniture.

AS 29.53.020(a) (3)

(Gerald L. Sharp)

A number of problems arise from the lack of definitions of terms such as religious, charitable, educational, and perhaps hospital, which are used in this section. Also, there is a question which arises relating to when a property which is owned by, for example, a religious organization, becomes exempt;

AS 29.53.020(a) (3) (cont'd)

(Gerald L. Sharp)

for example, does vacant land become exempt when it is first purchased by an exempt organization, when the organization has an intent to devote it to a particular exempt use, when the organization commences construction of a facility which will be used for the exempt purpose even though during construction it is not being used for the exempt purpose? (b)(2)(B)

AS 29.53.025

(M. Westfall)

Classification of boats for purposes of taxation by tonnage should be changed to more realistic amounts.

AS 29.53.025(b) (1)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.53.025(b) (2) (A)

(Michael Worley, Assessor)

Delete optional exemption for household furniture.

AS 29.53.030

(Gerald L. Sharp)

This section should be revised to reflect a realistic value for mining claims, particularly in light of the recent rise in the price of gold.

AS 29.53.030

(Michael Worley, Assessor)

Replace section dealing with mining claims with a local severance tax on all resources (timber, fill, minerals, etc.)

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.53.030(b)

(Michael Worley, Assessor)

Delete "30 days before the equalization hearings".

AS 29.53.035(c)

(Dave Braden, Assessor)

The income requirement for the farm use exemption should be reduced to 5% or eliminated in order to encourage agriculture in the state. Consider additional preferential tax treatment.

AS 29.53.050(b)

(Michael Worley, Assessor)

Change the \$1,000.00 to \$1,500.00 to be consistent with 29.53.045.

AS 29.53.060

(Gerald L. Sharp)

Perhaps this is a section in which the valuation of leasehold and other possessory interest in tax exempt property should be exempt.

AS 29.53.060

(M. Westfall)

Include the words "having a situs within the taxing district" after the word "property". Boats and airplanes are commonly removed from the district during the first month of the year to avoid taxation.

AS 29.53.080

(Ribert H. Ziegler, Sr.)

Assessors should not be allowed to have access to sale price of property by requesting this information from buyers or sellers.

AS 29.53.110(a)

(Michael Worley, Assessor)

Delete "and the dates when the board of equalization will sit" for the assessment notice requirement.

AS 29.53.120(a)

(Michael Worley)

Insert a requirement that a person advise the assessor of errors within 30 days of the effective date of the notice.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.53.120(b)

(Michael Worley, Assessor)

Delete. Add the following subsection: "If the property owner disagrees with the assessed value, the assessor shall review the assessment and inform the property owner of his findings allowing 10 days for appeal to the board. If the assessed value changes, the assessor shall send a revised notice to the property owner".

AS 29.53.130(b)

(Michael Worley, Assessor)

Amend to allow 10 days for appeal from the date the notice is effective. Delete "unless the board finds that the taxpayer was unable to comply".

AS 29.53.135

(Gerald L. Sharp)

This section should be clarified to indicate whether a majority of the number of members of the assembly. Also, either here or someplace else in the code, we should specifically address whether or not the Board of Equalization has the authority to determine whether property is exempt, and, if exempt, how much of the property is exempt if it is not totally devoted to exempt use.

AS 29.53.135

(Allan E. Tesche)

The language regarding the composition of the Board of Equalization is unclear. The statute presently requires "at least that number of members of the assembly over and above the number required for a quorum to transact business"; the statute is unclear when applied to a lay board to whom the equalization function is delegated.

AS 29.53.135

(Michael Worley)

Provide that the board of equalization consist of not fewer than three members. Delete "including but not limited to quorum and voting requirements".

AS 29.53.140(c)

(Michael Worley, Assessor)

Delete "or improper" and "or proved at the hearing".

AS 29.53.150

(Gerald L. Sharp)

A question arises as to whether property which goes from exempt property on January 1 of the tax year to non-exempt because of a change of use during the tax year can be put on a supplemental roll and taxed. Also, if it can be, should the taxes be a portion? In addition, something should be placed in the code to provide guidance for dealing with personal property which is in the municipality for only a part of the year.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.53.180

(Gerald L. Sharp)

This section should be changed to reflect a reasonable interest rate and a penalty which is substantially above the interest.

AS 29.53.320

(M. Westfall)

Change person to receive redemption monies from clerk to tax collector, who has the records of assessment and taxation.

AS 29.53.390(a)

(Michael Worley)

Delete "against the borough, the borough shall refund the amount of taxes to the taxpayer" and insert "or if in the absence of suit, the borough assembly determines that judgment for the recovery of the taxes would be obtained if legal proceedings were brought, the amount of the taxes shall be paid to the taxpayer".

AS 29.53.415

(Gerald L. Sharp)

(& 29.53.440) Something needs to be added to these sections to take care of problem created by the Alaska Supreme Court when it ruled that there was no statutory authority for a general law municipality to establish a lead for sales taxes.

AS 29.58.

(Ben T. Delahay)

A new section should be added authorizing that an ordinance for refunding bonds be passed on one hearing, at either a regular or special meeting, and with only the normal majority vote.

AS 29.63.

(Ben T. Delahay)

The chapter on service areas should be clarified; there is too much authority in the assembly to handle decisions in the service area which should be made by the people paying the taxes in the area.

AS 29.63.

(Bruce Aronson)

Community councils should be advisory only by statute and money from the state for service areas ought to be appropriated for the city, not the local council.

AS 29.63.090(e)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.63.090

(Elsie O'Brien)

Loans by borough to service area should be subject to prior approval by voters within the service area.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.63.090

(Allan E. Tesche)

The present statute governing service areas does not adequately address the question of whether a service area may be used for exercise of a governmental regulatory power rather than for provision of municipal or services.

AS 29.68.

((Bruce Aronson)

Statutes should be changed so that cities are not able to annex territory without providing services to the annexed area and so that people living outside cities who are receiving services pay for them.

AS 29.68.010(cont'd)

(City of St. Mary's)

The delay in time between the decision of the Local Boundary commission and the legislative disapproval time is unnecessary and can lead to legal complications. Since the legislature has never disapproved a Boundary Commission decision it seems this requirement of submission to the legislature has little utility. A workable alternative might be to preserve a right to appeal a boundary commission decision to the legislature.

AS 29.68.010

(City of St. Mary's)

The City recently annexed an adjacent community into its boundary. In order to facilitate the annexation the City wanted to and did make major concessions to the citizens of the adjacent community with respect to a voice in City affairs. Technically what the City has done is not legal because the annexation is not finalized until 45 days after the next legislative session has begun.

AS 29.73.020

(Gerald L. Sharp)

This section needs to be divided into two subsections to separate the procedures for home rule and general law municipalities from those for second class municipalities. Presently, there is some question as to whether the last two sentences of the section apply only to second class cities or whether it applies to all municipalities.

AS 29.78.

(David Dye, Planner III, C&RA)

Expand definitions to include other terms used in Title 29.

AS 29.78.101(16)

(Richard W. Garnett, III)

Definition of "subdivision"; consider application to division for leasing, as by holders of oil leases.

SUMMARY OF SUGGESTIONS - TITLE 29 REVISION COMMISSION, Cook, 10/7/80

AS 29.88.020(e) (3)

(Terry Earley, State Assessor)

Allow the determination of full and true assessed value for second class cities with a population of less than 750 to be based on a comparison with the most comparable cities for which a determination has previously been made. See proposed draft.