

SCOMM

#23:43

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.280. CONSTRUCTION. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

EXPLANATION: The following provision is made inapplicable to the use of proceeds from revenue bonds:

Sec. 37.10.085. FINANCIAL AID TO CORPORATIONS BY STATE OR POLITICAL SUBDIVISION. Neither the state nor a political subdivision of the state may

- (1) make a subscription to the capital stock of a corporation;
- (2) lend its credit for the use of a corporation;
- or
- (3) borrow money for the use of a corporation.

It is felt by bond counsels that this section currently forbids a municipality to use proceeds of revenue bond sales for loans and other expenditures designed to encourage industrial development.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.340. SALE OF REFUNDING BONDS. General obligation refunding bonds or revenue refunding bonds may, at the discretion of the assembly or council, be exchanged for the bonds being refunded, or may be sold at public or private sale. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

EXPLANATION: It is felt by bond counsels that the flexibility of allowing a refunding bond to be exchanged or sold at other than par value ought to be provided. It is felt that the policy of notifying the public of the value of bonds should not become an hinderance to obtaining the best deals through discounting bonds. It has become difficult to market revenue bonds at par value according to bond counsels.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.370. PUBLIC SALE. Repeal.

EXPLANATION: This section is repealed as redundant since other provisions deal with the sale of bonds.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.390. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS.

Repeal.

EXPLANATION: This section is repealed as unnecessary since the governing body has control through approving or disapproving the issuance of bonds. Arguably, contracting is an executive function.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.410. BOROUGH INDEBTEDNESS. (a) A borough may incur indebtedness

**(1) on an areawide basis for areawide functions;
or**

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be derived from the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas and the full faith and credit of the area is pledged for the payment of the debt.

(d) no change.

**EXPLANATION: Minor technical clean-up in (a) and (b).
Language at the end of (c) added to make it clear that a
service area general obligation bond can be issued.**

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

**Sec. 29.51.420. BONDED INDEBTEDNESS FOR SCHOOL CONSTRUCTION.
Repeal.**

Sec. 29.51.430. BOND GUARANTEE FUND. Repeal

EXPLANATION: These sections have never been used and appear to serve no useful purpose. They are repealed at the request of the State Assessor.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.440. SERVICE AREA DEBT. The indebtedness of a service area acquired under AS 29.51.410 shall remain the indebtedness of the area which incurred the debt notwithstanding a subsequent court determination that the service area was not validly formed under law or by virtue of a defect in the proceedings creating the service area. All the property within the service area remains subject to taxation to pay the bonded indebtedness.

EXPLANATION: This is a new section. The Alaska Constitution prohibits the establishment of service areas when the function can be performed by a city or another service area. No guidelines have been established, leaving the legality of some service areas in doubt. This provides for the continuation of a debt should a service area subsequently be declared invalid, creating a de facto service area for purposes of the debt.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

^{51.340}
Sec. 29.58.200. SALE ^{OF REFUNDING BONDS.} General obligation ^{refunding bonds} or revenue refunding bonds may, ^{QTY} at the discretion of the assembly or council, be exchanged for the bonds being refunded, or may be sold at public or private sale. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

^{during}
EXPLANATION: It is felt by bond counsels that the flexibility of allowing a bond to be exchanged or sold at other than par value ought to be provided.

Add material from p. 70

Sec. 29.51.270⁵⁰ CONSTRUCTION. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

EXPLANATION: The following provision is made inapplicable to the use of proceeds from revenue bonds:

Sec. 37.10.085. FINANCIAL AID TO CORPORATIONS BY STATE OR POLITICAL SUBDIVISION. Neither the state nor a political subdivision of the state may

- (1) make a subscription to the capital stock of a corporation;
- (2) lend its credit for the use of a corporation;
- or
- (3) borrow money for the use of a corporation.

It is felt by bond counsels that this section currently forbids a municipality to use proceeds of bond sales for loans and other expenditures designed to encourage industrial development.

** revenue*

INSERT

§ 37.10.080

ALASKA STATUTES

§ 37.10.087

(d) As used in this section, the term "commissioner of revenue" means the commissioner of revenue or any other officer, board, commission or committee of the state authorized to invest money of the general fund. (§ 1 ch 207 SLA 1970; am §§ 1 — 3 ch 112 SLA 1975)

Revisor's note (1979). — To correct a clerical error, the word "or" has been inserted at the end of AS 37.10.079(b)(1), added by ch. 207, SLA 1970 (HCS CSSB 593 am H). See 1970 House Journal, page 1589.

Effect of amendment. — The 1975 amendment substituted "he may" for "up to \$18,365,000 of them may be used to" in subsection (a), and in paragraph (2) of subsection (b), substituted the language

beginning "the bonds cannot be sold" for "the buyer has proper cause to avoid his contract for the purchase of the bonds" at the end of subparagraph (B), deleted subparagraph (C), and inserted the language beginning "municipality is" and ending "so that the" in subparagraph (D). The amendment also so changed subsection (c) that a detailed comparison is impracticable.

Sec. 37.10.080. Sale of bonds held as investments. Bonds purchased by the Department of Revenue for the benefit of the state from funds set apart for a specific purpose may be sold by the Department of Revenue at the terms and conditions which the governor approves, and the money received shall be credited to the fund for which the bonds were purchased. (§ 13-1-3 ACLA 1949)

Sec. 37.10.085. Financial aid to corporations by state or political subdivision. Neither the state nor a political subdivision of the state may

- (1) make a subscription to the capital stock of a corporation;
- (2) lend its credit for the use of a corporation; or
- (3) borrow money for the use of a corporation. (~~§§ 4-2-1, 12-1-3 ACLA 1949~~)

Bond issue to encourage industrial development. — A general obligation bond issue for the purpose of encouraging industrial development within a municipality was held valid in *Wright v. City of Palmer*, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

Quoted in *Burton v. Matanuska Valley Lines*, 17 Alas. 298, 244 F.2d 647 (9th Cir. 1957).

ALR references. — Encouragement or promotion of industry not in nature of public utility, carried on by private enterprise, as public purpose for which public money may be appropriated, 112 ALR 571.

Validity, construction and effect of statutes authorizing public funds for urban redevelopment by private enterprise, 44 ALR2d 1420, 1431.

Sec. 37.10.087. Loans to bond construction funds. (a) When a construction fund or account established to receive the proceeds of state general obligation bonds is temporarily exhausted the commissioner of administration on recommendation of the state bond committee, and with the approval of the Legislative Budget and Audit Committee, may temporarily transfer money from the general fund to the bond construction fund or account.

(b) Transfers under (a) of this section may be made only when the commissioner of revenue determines and certifies to the state bond committee that there is in the general fund an amount sufficient to meet current cash expenditure needs of the state.

Explanation: The following 32 provision is made inapplicable + the use of proceeds from revenue bonds:

It is felt by bond counselors that this section currently prohibits municipalities from having proceeds to bond

industrial
to encourage
development
and other expenditures
development.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.370. PUBLIC SALE. ^{Repeal} ~~The municipality shall sell all bonds at a public or private sale as provided by ordinance.~~

EXPLANATION: ~~The requirement that no bonds be sold at less than par value has been eliminated.~~ It is felt that the policy of notifying the public of the value of bonds should not become a hinderance to obtaining the best deals through discounting bonds. It has become difficult to market revenue bonds at par value according to bond counsels. → p.69

This section is repealed as redundant since other provision deal with the sale of bonds.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

^{51.390}
Sec. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS.
Repeal.

EXPLANATION: This section is repealed as unnecessary since the governing body has control through approving or disapproving the issuance of bonds. Arguably, contracting is an executive function.

Sec. 29.51.410. BOROUGH INDEBTEDNESS. (a) A borough may incur indebtedness

(1) on an areawide basis for areawide functions;
or

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be derived from the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas and the full faith and credit of the area is pledged for the payment of the debt.

(d) no change.

EXPLANATION: Minor technical clean-up in (a) and (b). Language at the end of (c) added to make it clear that a service area general obligation bond can be issued.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

^{51.420}
Sec. 29.58.345. BONDED INDEBTEDNESS FOR SCHOOL CONSTRUCTION.

Repeal.

^{51.430}
Sec. 29.58.350. BOND GUARANTEE FUND. Repeal,

EXPLANATION: These sections have never been used and appear to serve no useful purpose. They are repealed at the request of the State Assessor.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.440. SERVICE AREA DEBT. The indebtedness of a service area acquired under AS 29.51.410 shall remain the indebtedness of the area which incurred the debt notwithstanding a subsequent court determination that the service area was not validly formed under law or by virtue of a defect in the proceedings creating the service area. All the property within the service area remains subject to taxation to pay the bonded indebtedness.

EXPLANATION: This is a new section. The Alaska Constitution prohibits the establishment of service areas when the function can be performed by a city or another service area. No guidelines have been established, leaving the legality of some service areas in doubt. This provides for the continuation of a debt should a service area subsequently be declared invalid, creating a de facto service area for purposes of the debt.

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. ~~This It~~ creates a hardship on smaller municipalities which may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there ~~was~~ always a possibility that they ~~were~~ void if the wrong person provided marketing assistance.

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EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. This creates a hardship on smaller municipalities which may have ^{only} ~~to depend on~~ one financial advisor ^{available} ~~for both~~ ~~financial planning and the sale of bonds~~. The municipality ^{is protected} ~~by Federal SEC disclosure requirements and by the fact that a~~ ^(Set out section) "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there was always a possibility that they were void if the wrong person provided marketing assistance.

ALTERNATE 1.

AS 37.30.100 is repealed.

SEC. 29.58.317. PROHIBITED BIDDING ON BONDS. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purpose if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker.

→ ALTERNATE 2.

AS 37.30.100 is repealed.

OK
approved.

Cuts down on people who bid on your bonds and on competent people to advise a town. Now there is a ^{SEC} fed. disclosure requirement to municipality & "person" can't buy ¹ without permission of municipality anyway.
Problem is with smaller communities. Always a cloud over bonds as void under (b) — who provided marketing assistance?

and (2) the original obligation date is not more than two years from the requested date of disbursement. (§ 1 ch 113 SLA 1962)

Sec. 37.25.020. Unexpended balances of appropriation for capital projects. An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years. Between July 1 and August 31 of each fiscal year, a statement supporting the amount of the unexpended balance required to complete the projects for which the initial appropriation was made and the amount that may be lapsed shall be recorded with the Department of Administration. (§ 2 ch 113 SLA 1962)

Chapter 30. Local Government Bonding.

Article

1. Anticipatory Borrowing (Repealed)
2. Restrictions on Sale of Bonds and Bond Anticipation Notes (§ 37.30.100)

Article 1. Anticipatory Borrowing.

Section

0—90. [Repealed]

Secs. 37.30.010 — 37.30.090.

Repealed by § 1 ch. 118 SLA 1972.

Editor's note. — The repealed article derived from § 1, ch. 117, SLA 1964; § 1, ch. 189, SLA 1970.

Article 2. Restrictions on Sale of Bonds and Bond Anticipation Notes.

Section

100. Prohibited bidding on bonds

Sec. 37.30.100. Prohibited bidding on bonds. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purchase if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (~~§ 3 ch. 102 SLA 1974~~)

~~Sec. 29.51.440. ~~SERVICE~~ AREA DEBT.~~

Sec. 29.51.440. SERVICE AREA DEBT. The indebtedness of a service area acquired under AS 29.51.410 shall remain the indebtedness of the area which incurred the debt notwithstanding a ^{subsequent} court determination that the service area was not validly formed under law or by virtue of a defect in the proceedings creating the service area. All the property within the service area remains subject to taxation to pay the bonded indebtedness.

Explanation: This is a new section. The Alaska Constitution prohibits the establishment of service areas where the functions can be performed by a city or another service area. No guidelines have been established, leaving the legality of some service areas in doubt. This provides for the continuation of a debt should a ~~service~~ area subsequently be declared invalid, creating a de facto service area for purposes of the debt.

CHAPTER 58. MUNICIPAL DEBT.

ARTICLE

1. Revenue Anticipation Notes (§§ 29.58.010--29.58.060)
2. Bond Anticipation Notes (§§ 29.58.070--29.58.140)
3. General Obligation Bonds (§§ 29.58.150--29.58.180)
4. Revenue Bonds (§§ 29.58.200--29.58.230)
5. Refunding Bonds (§§ 29.58.240--29.58.280)
6. Miscellaneous Provisions (§§ 29.58.300--29.58.350)

ARTICLE 1. REVENUE ANTICIPATION NOTES.

SECTION

SECTION

10. Borrowing in anticipation of revenue
20. Issuance of notes
30. [REPEALED]

40. Issuance of notes in anticipation of state, federal grants
50. Priority of repayment
60. Sale of notes

*No change
Do not
Type*

SEC. 29.58.010. ^{51,010} BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year but all debt so contracted shall be paid before the end of the next fiscal year. Revenue anticipation notes may be issued as evidence of the borrowing.

*No change
Do not
Type*

SEC. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale.

Repealed

SEC. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. ^{REPEALED.} ~~The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 percent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.~~

*Do not
Type*

SEC. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE,

No change
Do not
sup
FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. The notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing, or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

No change
Do not
sup
SEC. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on the revenue anticipation notes shall be payable from revenues, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them.

No change
Do not
sup
SEC. 29.58.060. SALE OF NOTES. The municipality may sell revenue anticipation notes in the manner and at the price it determines, at either public or private sale.

ARTICLE 2. BOND ANTICIPATION NOTES.

SECTION

70. Bond anticipation borrowing
80. Issuance of notes
90. Issuance of new notes
100. Repayment of notes

SECTION

110. Security
120. Limitation
130. Use of proceeds
140. Sale of notes

*No change
Do not
type*

SEC. 29.58.070. BOND ANTICIPATION BORROWING. A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

(1) the general obligation bonds to be sold have been authorized by the assembly or council and ratified by a majority vote at a regular or special election;

(2) the revenue bonds to be sold have been authorized by ordinance.

*No change
Do not
type*

SEC. 29.58.080. ISSUANCE OF NOTES. The assembly or council shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time, from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued unless the bonds have not been sold by the maturity date of the notes.

*No change
Do not
type*

SEC. 29.58.090. ISSUANCE OF NEW NOTES. If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the assembly or council shall issue new notes in order to meet payment of the notes then maturing or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes shall bear a maturity date not to exceed one year from the date of issue. Notes, new notes, and renewals of notes shall not be outstanding for a total elapsed time of more than three years.

*No change
Do not
type*

SEC. 29.58.100. REPAYMENT OF NOTES. Every note is payable from the proceeds of the sale of bonds which the notes anticipated or from the proceeds of the sale of new bond anticipation notes.

*No change
Do not
type*

SEC. 29.58.110. SECURITY. (a) Notwithstanding any other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are secured by the full faith, credit, taxing power and resources of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) Notes issued in anticipation of the sale of revenue bonds and the interest on them are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued.

*No change
Do not
type*

SEC. 29.58.120. LIMITATION. The total amount of notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued.

*No change
Do not
type*

SEC. 29.58.130. USE OF PROCEEDS. The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes.

*No change
Do not
type*

SEC. 29.58.140. SALE OF NOTES. Notes issued under this chapter shall be sold by the municipality in the manner and at a price it determines, at either public or private sale, but no note may be sold for less than par and accrued interest.

ARTICLE 3. GENERAL OBLIGATION BONDS.

SECTION

SECTION

150. General obligation bonds
160. Vote and notice of existing indebtedness required

170. Form and terms of sale
180. Payment

*No change
Do not
type*

SEC. 29.58.150. GENERAL OBLIGATION BONDS. A municipality may acquire, construct, improve and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes.

SEC. 29.58.160. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED.

No change
Do not type
(a) A municipality may incur general obligation bond debt only after a bond authorization ordinance ~~is approved~~ by a majority of those voting on the question at a regular or special election. Any municipal voter may vote in the bond election, except as otherwise provided by charter or law.

(b) Before a general obligation bond issue election, the assembly or council shall have published a notice of the municipality's total existing bond indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. A notice shall include

(1) the current total general obligation bonded indebtedness, including authorized but unsold bonds of the municipality;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed valuation within the municipality.

No change
Do not type
SEC. 29.58.170. FORM AND TERMS OF SALE. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

No change
Do not type
SEC. 29.58.180. PAYMENT. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount to pay or secure the payment of the principal and interest on bonds, regardless of whether the bonds are in default or in danger of default.

(b) General obligation bonds issued for acquiring, constructing, improving and equipping a municipally-owned utility or other

revenue-generating enterprise may be additionally secured by a pledge of the revenue derived from operation. Bonds so secured are not subject to a debt limitation imposed by a borough or city home rule charter.

ARTICLE 4. REVENUE BONDS.

SECTION

200. Revenue bonds
210. Forms and terms
220. Payment
230. Operation of AS 37.10.085

SEC. 29.58.200. REVENUE BONDS. (a) A municipality may acquire, construct, improve and equip capital improvements to be operated upon a revenue-producing basis, and bonds for these purposes are ~~payable~~ ^{secured} ~~solely~~ ^[solely] from [UNPLEDGED] revenue of the public facilities for which the bonds are issued or from revenue of other public revenue-producing facilities. Revenue bonds shall not be payable from taxes or from the general funds of the municipality.

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection ~~are payable~~ ^{may be secured and are payable} solely from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality.

(c) A municipality may also issue revenue bonds for any lawful purpose. The bonds are payable from any amounts pledged by the municipality except taxes and do not constitute general obligations of the municipality.

SEC. 29.58.210. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate or rates of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, signatures required, and other details of the bonds. If an officer whose signature appears on the bonds or coupons ceases to be an officer before

delivery of the bonds, his signature is valid as if he had remained in office until delivery.

SEC. 29.58.220. PAYMENT. Bonds issued under AS 29.58.200--

29.58.220 or the proceedings of the assembly or council authorizing their issuance may contain the covenants which the assembly or council considers advisable concerning

(1) the rates or fees to be charged for services rendered by the public facilities, the revenue of which is pledged to the payment of the bonds, or the terms and conditions of any other amounts collected which are pledged to the payment of the bonds;

(2) the deposit and use of the revenue of the public facilities or of other amounts collected which are pledged to the payment of the bonds;

(3) the issuance of additional bonds payable from revenue of the public facilities or of other amounts collected which are pledged to the payment of the bonds;

(4) the rights of the bondholders in case of default in the payment of the principal or interest on the bonds, including the appointment of a receiver to operate the public facilities;

(5) other covenants as the assembly or council determines.

51.280. Construction
SEC. 29.58.230. ~~OPERATION OF AS 37.10.085.~~ The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

municipality may want to issue bonds & use proceeds to loan (Industrial development) Bond counsel have raised as a concern esp. where municipalities get into industrial dev.
ARTICLE 5. REFUNDING BONDS.

SECTION

240. Authorization
250. Effect of bonds
260. No election required

SECTION

270. Payment of refunding bonds
280. Sale

SEC. 29.58.240. AUTHORIZATION. If a municipality has outstanding general obligation or revenue bonds and the assembly or council determines that it would be financially advantageous to refund the bonds, the assembly or council may ^{authorize} ~~provide~~ ^{on resolution} by ordinance

Acting quickly to gain advantage in bond market
-7-

for the issuance of general obligation or revenue refunding bonds. Terms of refunding bonds may be established by resolution

SEC. 29.58.250. EFFECT OF BONDS. The refunding bonds may take up and refund all or any part of outstanding bonds at or before their maturity or redemption date. The assembly or council may include various series and issues of bonds in a single issue of refunding bonds.

SEC. 29.58.260. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance of the assembly or council. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question.

SEC. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation refunding bonds are payable according to § 180 of this chapter. Revenue refunding bonds are payable according to § 220 of this chapter.

SEC. 29.58.280. SALE. General obligation or revenue refunding bonds may, in the discretion of the assembly or council, be exchanged ~~at par~~ for the bonds being refunded, or may be sold at public or private sale, ~~for an amount not less than par and accrued interest~~. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

EXPLANATION: It is felt by bond managers that the flexibility of allowing a bond to be exchanged ^{on 2004} at other than par value ought to be provided. This section reflects the requirement that bonds be sold at not less than par.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

SECTION

- 300. Public sale
- 310. Interest rate
- 315. Bond attorneys, bond and financial consultants

SECTION

- 320. Redemption before maturity
- 340. Borough indebtedness
- 345. Bonded indebtedness
- 350. Bond Guaranty Fund

Id. 51.370



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EXPLANATION: The requirement that no bonds be sold at less than par value has been eliminated. It is felt that the policy of notifying the public of the value of bonds should not become a hindrance to obtaining the best financial deals through discounting bonds. It has become difficult to market revenue bonds at par value according to bond covenants.

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repealed
SEC. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance. No general obligation bonds may be sold at less than par value.

*change
etc*
^{51.370}
ALTERNATE SEC. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance, ~~(NO BONDS MAY BE SOLD AT LESS THAN PAR VALUE).~~

Add Explanation
~~And to market revenue bonds at par. Policy behind this is notice to public of value of bonds, shouldn't hinder financial experts in getting best deal this demand.~~

Hold
SEC. 29.58.310. INTEREST RATE. No municipal bond or note may bear an interest rate exceeding the contract usury rate of interest provided by law.

*repeal
legally
to lose
executive
powers*
SEC. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. *Repeal.*
The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds.

unnecessary assembly has control over approving bonds for protection
Explanation: This section is repealed as unnecessary since the governing body has control through approving or disapproving the issuance of bonds. Arguably contracting is an executive function.

*No
change*
SEC. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or note may be made subject to redemption before maturity as stated in the authorization or in the bond or note.

^{51.410}
SEC. 29.58.340. BOROUGH INDEBTEDNESS. ^{Ab} (a) ~~Boroughs~~ may incur indebtedness

- (1) on an areawide basis for areawide functions; or
- (2) on a noncity basis for functions performed in the area outside cities only; or
- (3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be ~~limited to~~ ^{derived from} the area incurring the debt under

(a) (2) or (a) (3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the entire borough is pledged for the payment of the debt of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas *and the full faith and credit of the area is pledged for the payment of the debt.*

(d) The indebtedness of a municipality reclassified under AS 29.08.040 is not affected by reclassification. Not less than all property within a municipality which is reclassified remains subject to taxation to amortize bonded or other indebtedness affecting the municipality and authorized on the effective date of reclassification.

No change

(d) *No change.* *Explanation: Minor technical clean-up in (a) and (b) language at the end of (c) added to make it clear that a service area general obligation bond can be issued.*

SEC. 29.58.345. BONDED INDEBTEDNESS FOR SCHOOL CONSTRUCTION. A home rule city levying property taxes for schools, upon furnishing proof satisfactory to the Department of Education and the Department of Community and Regional Affairs of the needs for school facilities which, if provided, will require the city to exceed limits on authorizing or issuing bonds which may be established by charter, may exceed the limits to the extent necessary to pay costs of school construction. In this section "costs of school construction" means costs as defined in AS 43.18.100(g) (2).

*Proposed eliminating
no one has
used
it
in law
Jacobson
Roberts
Montgale*

repeal

SEC. 29.58.350. BOND GUARANTEE FUND. (a) To guarantee payment by the state of the principal and interest of bonds issued under the enabling authority of § 345 of this chapter, there is in the Department of Community and Regional Affairs a special fund called the local school bond guarantee fund in which there shall be deposited all money appropriated by the legislature for the purpose of the fund and other money which may be made available for the purpose of the fund from any other source. Money in the

repeal

Sec. 29.51.420. Bonded indebtedness for school construction. Repeal.

Sec. 29.51.430 Bond Guarantee Fund. Repeal
These sections have never been used and appear to

they are repealed at the request of the State Assembly.

fund shall be held and applied solely to further guarantee and provide an additional pledge of payment of all bonds issued under the provisions of § 345 of this chapter. Money shall not be withdrawn from the fund if a withdrawal would reduce the amount in the fund to an amount equal to less than the "maximum debt service reserve" (as defined in this section), except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of a contract between the municipality and its bondholders and for the payments on account of which interest or principal or retirement of bonds other money is not then available in accordance with the terms of the contract. In this section "maximum debt service reserve" means, as of any date of computation, the largest amount of money required by the terms of all contracts between municipalities and their bondholders as to bonds issued under § 345 of this chapter to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of the contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that bonds will cease to be outstanding after the date of the computation by reason of the payment of bonds at their respective maturities and the payments of the required money to sinking funds and the application of the money in accordance with the terms of the contracts to the retirement of bonds.

(b) Money in the guarantee fund at any time in excess of the maximum debt service reserve, whether by reason of investment or otherwise, may be withdrawn by the department and transferred to the general fund.

(c) Money at any time in the guarantee fund may be invested in any direct obligation of, or obligations as to which principal and interest is guaranteed by, the United States, the state or a political subdivision.

(d) For purposes of valuation, investments in the guarantee fund shall be valued at the lowest of the par value, cost to the authority, or market value of the investments. Valuation on any particular date shall include the amount of interest then earned or accrued to that date on any money or investments in the fund.

(e) Other provisions of this section notwithstanding, no bonds may be issued carrying the guarantee provided in this section unless there is in the guarantee fund the maximum debt service reserve for all bonds then issued and outstanding and the bonds about to be issued, but nothing prevents or precludes a municipality from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds about to be issued, upon their issuance, as is needed to achieve the maximum debt service reserve.

(f) In order to assure the maintenance of the maximum debt service reserve in the guarantee fund, there is authorized to be appropriated annually and paid to the authority for deposit in the fund, the sum, if any, that is certified by the commissioner of community and regional affairs to the governor as necessary to restore the fund to an amount equal to the maximum debt service reserve. The chairman shall annually, before December 2, deliver to the governor his certificate stating the sum, if any, required to restore the fund to that amount, and the sum so certified is authorized to be appropriated and paid to the fund during the then current state fiscal year.

(g) Nothing in this section may be considered to cause bonds, payment of which is guaranteed from money in the fund established under this section, to be in any way a debt or liability of the state or any political subdivision of the state other than the political subdivision issuing the bonds, and the bonds, whether or not payable from the maximum debt service reserve created and established under this section, shall not create or constitute an indebtedness, liability or obligation of the state or be or constitute a pledge of the faith and credit of the state.