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COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

1/13/83

Date:

Mr. President:

The Committee on G & H has had SENATE BILL NO. 1

An Act relating to municipal government; eff. date.

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends Do Pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

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CHAIRMAN

~~SENATE AMENDMENT~~

PROPOSED SENATE AMENDMENT

By Community & Regional Affairs Committee

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE:                      LINE:

Note:      This change is listed as a proposal rather than an amendment because of the complex drafting that will be required to make sure all the necessary sections are cross referenced. Legal Services has reviewed this proposal and suggested this approach because of time constraints. If the Committee approves this proposal, Legal Services will incorporate it as part of the Committee Substitute.

Page 10, after line 19, insert new section:

"29.05.145. ASSUMPTION OF THE EDUCATION POWER. (a) When an unincorporated area or second class city that is part of a Regional Education Attendance Area incorporates or upgrades to first class or home rule city status, the assumption of the education power shall be in accordance with this section

(b) When an unincorporated area or city that is part of a REAA incorporates or upgrades to first class or home rule city status, that Director of Elections shall conduct an election in the REAA within 90 days of the incorporation.

(c) At this election, voters of the REAA shall be given an opportunity to approve or disapprove the assumption of the education power by the newly incorporated or upgraded first class or home rule city.

(1) The vote shall be counted separately within the city limits of the newly incorporated or upgraded city and in the remainder of the REAA.

(2) A majority of voters in both areas must approve the assumption of the education power by the newly incorporated or upgraded city or it may not assume the education power"

Alter other sections as necessary to conform.

## SENATE AMENDMENT

By Community & Regional Affairs Committee

To: \_\_\_\_\_ SENATE BILL No. 1  
 To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 33 LINE: 27

Insert "(26) 29.35.060 (franchise and permits)". Renumber following paragraphs accordingly.

★ Page 33, line 29, insert:

"(28) 29.35.075 (disputes and conflicts with state certificated utilities)"

Page 77, after line 3, insert:

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

Page 77, line 4-19, delete Section 29.35.070 and insert:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service, and may fix, establish, and change the rates and the charges imposed for a utility service provided to the municipality or its inhabitants by a utility except to the extent

42.05; or (1) the utility is subject to regulation under AS

(2) municipal regulation is prohibited by AS 42.05.711(k) or otherwise specifically prohibited by law.

(b) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality that is regulating it, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality establishing

the procedures for regulating service and procedures for establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.

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

Page 77, after line 19, insert:

"Sec. 29.35.075. DISPUTES AND CONFLICTS WITH STATE CERTIFICATED UTILITIES. (a) A dispute as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit for a utility certificated under AS 42.05 to use municipal streets, alleys or other public ways of the municipality shall be decided under AS 42.05.251.

(b) In case of a conflict between the provisions of AS 29.35.070 or AS 42.05 or an action taken under either as to the regulation of service, rates or charges of a utility, the provisions of AS 42.05.641 apply.

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

Page 195, after line 19, insert:

"\*Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) Except for municipally owned and operated utilities subject to (b) of this section, municipalities may not regulate utility services. Including but not limited to rates, terms and conditions of services, provided by a person, utility or cooperative that is exempt from regulation under AS 42.05.711."

Renumber following sections accordingly.

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

Page 195, after line 19, insert:

\*\*Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) Except for municipally owned and operated utilities subject to (b) of this section, municipalities may not regulate utility services, including but not limited to rates, terms and conditions of services, provided by a person, utility or cooperative that is exempt from regulation under AS 42.05.711."

Renumber following sections accordingly.

## SENATE AMENDMENT

BY Community & Regional Affairs CommitteeTo: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 74      LINE: 9

Delete "utility services,"

Page 77, after line 17, insert:

"(d) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary interests in real property outside its municipal boundaries."

Page 77, line 18, delete:

"(d)" and insert "(e)"

STATE OF ALASKA  
THE LEGISLATURE

FOLLOW STATE CARD,  
GENERAL ASSEMBLY  
STANDARD

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 9, 1983

SUBJECT: Public utilities  
(Amendment to SB 1)

TO: Senator Frank R. Ferguson  
Chairman, Senate Community and  
Regional Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

150

Here is an amendment that would incorporate the provision currently contained in AS 29.48.040 into SB 1. You have asked me to look into the effect of this amendment.

The request for this amendment arose as a result of testimony before your committee that the treatment of utility services in SB 1 appeared to negate the effect of the Chugach Electric decision construing the authority of a municipality to provide utility service to areas adjacent to the municipality. Chugach Electric Association appears to have had a lengthy history of difficulties with Anchorage, as there are several cases involving those two parties. However, Chugach Electric Association v. City of Anchorage, 426 P.2d 1001 (Alaska 1967), appears to be the case referred to in the testimony and a copy of it is provided.

That case construed former AS 29.10.135(b) which authorized a municipality to provide utility service to ". . . residents of contiguous and adjacent districts outside the limits of the city . . ." The Court concluded that the city of Anchorage could, under that statute, provide utility service to ". . . adjacent districts, areas, or localities located within a reasonable distance from the limits of the city of Anchorage." Chugach Electric Association, supra, page 1003. The Court also noted that the case arose because of unresolved questions regarding the relationship between certificated utilities and municipally owned and operated utilities.

Senator Frank R. Ferguson  
Page 2  
February 9, 1983

In 1963 municipal utilities were excluded from regulation by the Alaska Public Utilities Commission, but privately owned utilities were regulated. This created conflicts between municipally owned utilities and those certificated by the Alaska Public Utilities Commission, as both types of utilities attempted to serve the same geographic areas. In 1970, after Chugach Electric Association, supra, was decided, the legislature subjected municipally owned utilities that were in competition with other utilities to regulation. Now both municipally owned and privately owned utilities are granted a monopoly or partial monopoly for service in certain areas. Therefore, it is a question of policy whether the restriction on a municipality's authority to extend services outside its boundaries contained in AS 29.48.040 needs to be continued in view of the fact that the municipality must now receive Alaska Public Utility Commission approval to extend services at all.

AS 29.48.040 and this amendment have the effect of authorizing a municipality to extend utility service only to "adjacent" areas. Under Sec. 29.35.020 of SB 1, without this amendment, a municipality is granted broader power to provide utility services outside its boundaries since it may do so whether or not the area served is adjacent to the municipality.

If I can be of further assistance, please let me know.

TBC:ljb

Enclosure

In light of the foregoing, we affirm the superior court's denial of appellant's Criminal Rule 35(b) motion to vacate the judgment and commitment entered in this case.

Electricity to residents of "contiguous and adjacent districts" outside limits of municipality.

Judgment affirmed.



CHUGACH ELECTRIC ASSOCIATION, Inc., a non-profit electric cooperative corporation, and D. Bailey Calvin, Appellants,

v.

CITY OF ANCHORAGE, a municipal corporation, Municipal Light and Power Department, Robert H. Oldland and Carroll A. Oliver, and Calais Company, Inc., Appellees.

ALASKA PUBLIC SERVICE COMMISSION, State of Alaska, Appellant,

v.

CITY OF ANCHORAGE, a municipal corporation, Municipal Light and Power Department, Robert H. Oldland and Carroll A. Oliver, and Calais Company, Inc., Appellees.

Nos. 705, 706.

Supreme Court of Alaska.

May 1, 1967.

Proceeding by electric utility to enjoin municipality from furnishing electrical energy to subdivision which was located approximately one-fourth mile from city limits and which also was within service area of electric utility. The Superior Court, Third Judicial District, Edward V. Davis, J., denied permanent injunction. The electric utility appealed. The Supreme Court, Rabinowitz, J., held that subdivision was a reasonable distance from municipality and was within statute which provided that any city which operated plant for distribution of electricity may distribute elec-

1. Electricity C-4

Certificate of public convenience and necessity did not grant to electric utility a monopoly to furnish electrical energy throughout the service areas which had been allotted to it. AS 42.05.010-42.05.650.

2. Electricity C-11(5)

Under statute which provided that any city which operates plant for distribution of electricity may distribute electricity to residents of "contiguous and adjacent districts" outside limits of city, quoted phrase referred to contiguous districts and adjacent districts, and not only to those districts which are both contiguous and adjacent. AS 29.10.138.

See publication Words and Phrases for other judicial constructions and definitions.

3. Electricity C-11(5)

Under statute providing that any city which operates plant for distribution of electricity may distribute the electricity to residents of "contiguous and adjacent districts", municipality was authorized to sell and distribute electrical energy to adjacent districts, areas, or localities located within reasonable distance from limits of municipality. AS 29.10.135(b), 29.10.138.

4. Electricity C-11(5)

Subdivision which, at its closest point, was within approximately one-quarter of mile of city limits of municipality was a reasonable distance from municipality and was within statute which authorized municipality's operating plant for distribution of electricity to distribute electricity to residents of "contiguous and adjacent districts" outside limits of municipality. AS 29.10.135(b), 29.10.138.

5. Electricity C-4

The fact that service area designated in electric utility's certificate of public convenience and necessity encompassed sub-

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applicable to the... presented a... related to the cir... at bar. There the... on eleven counts... securities Act. After... single count, the re... dismissed. The pre... was submitted in... nt was guilty of the... dismissed. In up... conviction the court

other counts at the... was not an ad... on the merits, even... the statute of limi... prosecution can occur... charged. The aim... it is to acquire a... with the char... he man before it... lude the unfavor... vorable, data, and... relevant as other... e defendan., par... y related to the... el suggests that... ord' may be con... ed on 'by a court... we see nothing... erion. \* \* \*

tes, 113 U.S. 192 (1902), S.Ct. 733, 9

division which was adjacent to municipality which operated plant for distribution of electricity did not grant electric utility monopoly in regard to furnishing of electrical energy to subdivision. AS 29.10.135(b), 29.10.138, 42.05.010-42.05.650.

#### 6. Electricity ☞4

Where subdivision is adjacent to municipality and subdivision is also within service area designated in electric utility's certificate of public convenience and necessity, utility is not insulated from competition by municipally owned and operated utilities. AS 29.10.135(b), 29.10.138, 42.05.010-42.05.650.

#### 7. Municipal Corporations ☞884

Extension of municipality's electrical system into subdivision which was adjacent to municipality would not constitute waste, or misuse, of public funds.

William J. Moran, Anchorage, for appellants Chugach Electric Ass'n, Inc. and D. Bailey Calvin.

Warren C. Colver, Atty. Gen., and Andrew E. Hoge, Asst. Atty. Gen., Juneau, for appellant Alaska Public Service Commission.

Stanley Howitt, Asst. City Atty., Anchorage, for appellees City of Anchorage, Municipal Light & Power Department, Carroll A. Oliver and Robert H. Oldland.

Before NESBETT, C. J., and DIMOND and RABINOWITZ, JJ.

1. Appellants also requested mandatory injunctive relief (i.e., removal of the city's transmission facilities from the area in question).
2. Opinion No. 290, 423 P.2d 285 (Alaska 1967).
3. The certificate of public convenience and necessity which was issued to Homer Electric provided for a service area which included portions of the city of Kenai.
4. AS 42.05.010-42.05.650.

RABINOWITZ, Justice.

We are again asked to resolve a dispute between a municipally owned and operated electric utility and a public utility which has been certified pursuant to the provisions of the Alaska Public Service Commission Act.

This consolidated appeal arises from the superior court's denial of a permanent injunction to appellants Chugach and Calvin. In the lower court these parties sought to restrain the city of Anchorage from furnishing electrical energy to Bancroft Subdivision which is located approximately one-quarter of a mile outside Anchorage's city limits.<sup>1</sup>

Several questions presented in this appeal have been answered by our recent decision in *Homer Electric Ass'n v. City of Kenai*.<sup>2</sup> That case involved questions as to the effect of the issuance of a certificate of public convenience and necessity to a public utility by the Alaska Public Service Commission. We held that such a certificate was not an exclusive, or monopoly, grant to furnish electrical energy within the corporate limits of the city of Kenai.<sup>3</sup> Our study of the legislative history of the Alaska Public Service Commission Act,<sup>4</sup> and in particular the 1963 amendments thereto, led us to conclude that municipally owned and operated utilities were intended to be excluded from the act's coverage. We, therefore, held that the delineation of a service area contained in a certificate of public convenience and necessity did not provide the basis for precluding a municipality from competing, within its own corporate limits, with such a certificated utility.<sup>5</sup>

5. We also pointed out that it was not disputed that the city of Kenai possessed the right and authority to own and operate an electrical distribution system. In this regard AS 29.10.135(a) provides:
 

The council may purchase, construct, or otherwise acquire, establish and operate public wharves, public sewers, public cold storage plants, telephone systems and plants for the use, sale and distribution of light, water, power, heat and telephone service and the collection and treatment of sewage for the residents of the city and the public.

[1] We adhere to our decision in *Homer Electric* and hold that appellant Chugach's certificate of public convenience and necessity does not, in relation to the city of Anchorage's electrical utility system, grant it a monopoly to furnish electrical energy throughout the service areas which have been allotted to it. As we view the issues in this appeal, the primary question raised is whether the city of Anchorage is authorized to furnish electrical power to the geographical area in question which is located outside of Anchorage's corporate limits.

Resolution of this question involves construction of, and determination of the applicability of, the provisions of AS 29.10.135(b). This statute provides:

A municipality which owns or operates plants for the use, sale or distribution of light, power \* \* \* service \* \* \* for the residents of the city may also sell and distribute the light, power \* \* \* service to \* \* \* the residents of contiguous and adjacent districts outside the limits of the city, and for that purpose may construct, purchase or otherwise acquire, own, maintain and operate extensions, pole lines \* \* \* and other neces-

sary apparatus and equipment, together with the real property necessary for them, outside the limits of the city.<sup>6</sup>

[2] The precise controversy in this appeal is over the proper interpretation of the language "contiguous and adjacent districts" and whether or not the geographical area in dispute comes within this phraseology. In *Chugach Electric Ass'n v. City of Anchorage*<sup>7</sup> the Ninth Circuit had occasion to construe "contiguous and adjacent districts" as used in the statute.<sup>8</sup> The Ninth Circuit concluded that the disputed phrase refers to contiguous districts and adjacent districts. We think this is its plain meaning. This involves no conversion of the word 'and' to 'or.'

\* \* \* \* \*  
\* \* \* We think the court correctly considered that the word 'districts' meant 'areas' or 'localities.'<sup>9</sup>

[3] We adopt this construction of "contiguous and adjacent districts" and hold that under AS 29.10.135(b) the city of Anchorage is authorized to sell and distribute electrical energy to adjacent districts, areas, or localities located within a reasonable distance from the limits of the city of Anchor-

6. See also AS 29.10.135 which provides: Extraterritorial jurisdiction. For the purpose of installing, acquiring, owning or operating plants for the supply of water, light, heat or power to the city or its people, or for the purpose of constructing and maintaining a sewer system, a city may acquire and own property outside the boundaries of the city and may enact and enforce ordinances to protect the sources of the supply of water for the city from contamination, interruption, interference or injury even though they are situated outside of the boundaries of the city. The council may also enact and enforce ordinances to protect, whether in or out of the city, parks, cemeteries, and playgrounds, and light, heat, power and water plants, and sewers together with dams, flumes, pipelines, electrical transmission lines and other equipment for serving the city or its inhabitants with light, heat, power or water or drainage through sewers, whether owned by the city or not.

7. 214 F.2d 110, 113, 15 Alaska 70 (9th Cir. 1954).

8. AS 29.10.135 was codified at that time as ACLA 1949 § 16-1-3S.

9. The trial court in its opinion in *Chugach Electric Ass'n v. City of Anchorage*, 100 F.Supp. 6, 7-8, 13 Alaska 747 (D. Alaska 1952), had held that "the conjunctive 'and' must be read as 'or.'" In his opinion Judge Folta also wrote that under the statute quoted a municipality is authorized to extend its distribution system into any non-contiguous area within a reasonable distance of its corporate limits, provided that the intervening territory is unsettled and uninhabited or virtually so, but that it was never intended by the use of the term 'adjacent' to permit a municipality to leapfrog a settled area, particularly where, as here, such area is, from all appearances, a part of the metropolitan area, and extend its distribution system into the territory beyond.

Digest

age.<sup>10</sup> This leads us to the question of whether the Bancroft Subdivision is an adjacent district, area, or locality within the intendment of AS 29.10.135(b).<sup>11</sup>

[4-6] Named appellee Calais Company is the owner and subdivider of the Bancroft Subdivision<sup>12</sup> which, at its closest point, lies within approximately one-quarter of a mile of the southerly limits of the city of Anchorage.<sup>13</sup> Examination of the record in this case has convinced us that the Bancroft Subdivision is an adjacent district within the definition adopted in *Chugach Electric Ass'n v. City of Anchorage*.<sup>14</sup> We further hold that Bancroft Subdivision lies within a reasonable distance from the city of Anchorage. Therefore, under the provisions of AS 29.10.135(b) the city of Anchorage is empowered to sell and distribute electrical energy to residents of the Bancroft Subdivision. The fact that the service area designated in appellee Chugach's certificate of public convenience and necessity encompasses this subdivision does not, under our holding in *Homer Electric Ass'n v. City of Kenai*,<sup>15</sup> grant it a monopoly in regard to the furnishing of electrical energy to Bancroft Subdivision.

10. Appellees contend that the Alaska legislature was aware of the Ninth Circuit's holding in the *Chugach* case when it enacted the 1963 amendments to the Public Service Commission Act. Appellees argue that if the *Chugach* decision did not express the legislature's intent, the section would have been changed or clarified. See *Reed v. Steamship Yaka*, 373 U.S. 410, 414, 83 S.Ct. 1349, 10 L.Ed.2d 448, 452 (1963), where the Supreme Court said:

But we cannot now consider the wording of the statute alone. We must view it in the light of our prior cases in this area . . . the holdings of which have been left unchanged by Congress.

See 1 Sutherland, *Statutory Construction* § 1735 (3d ed. 1943).

11. In the *Chugach* case referred to above, the area in question, at its closest point, was approximately one and one-half miles from the city limits of Anchorage.

Here, as in *Homer Electric*, the municipally owned and operated electric utility is furnishing service to, and within, an authorized geographical area. In such circumstances the certificated utility is not, under the Alaska Public Service Commission Act, insulated from competition by municipally owned and operated utilities.

[7] Brief reference will be made to two other issues in this appeal. Appellants argue that the superior court erred in failing to hold that the city of Anchorage's extension of its electrical system into Bancroft Subdivision constituted waste, or misuse, of public funds.<sup>16</sup> The record discloses that the trial court's findings of fact and conclusions of law pertaining to this question are amply supported by evidence. We sustain the superior court's determination of this issue. In our opinion there is no merit in appellees' contention that appellants should be barred from any relief in this court because of laches on their part. Appellees' assertions in this regard are not borne out by the record.

In *Homer Electric Ass'n v. City of Kenai*<sup>17</sup> we noted that a satisfactory solu-

12. *Chugach Electric Ass'n v. Calais Co.*, 410 P.2d 508 (Alaska 1966), also involved this same subdivision.

13. See generally sketch of the area in question contained in the appendix hereto.

14. 214 F.2d 110, 15 Alaska 70 (9th Cir. 1954). We shall not pass upon what appears to be an alternative basis of the trial court's decision, namely, the expanded powers possessed by municipalities through constitutional and statutory provisions providing for home rule cities.

15. Opinion No. 390, 423 P.2d 285 (Alaska 1967).

16. More specifically, the trial court held that:  
Construction of the line is neither wasteful nor uneconomic so far as the City is concerned. Furthermore, I find that the contemplated service will be extremely profitable to the City.

17. 423 P.2d 285, 290 (Alaska 1967).

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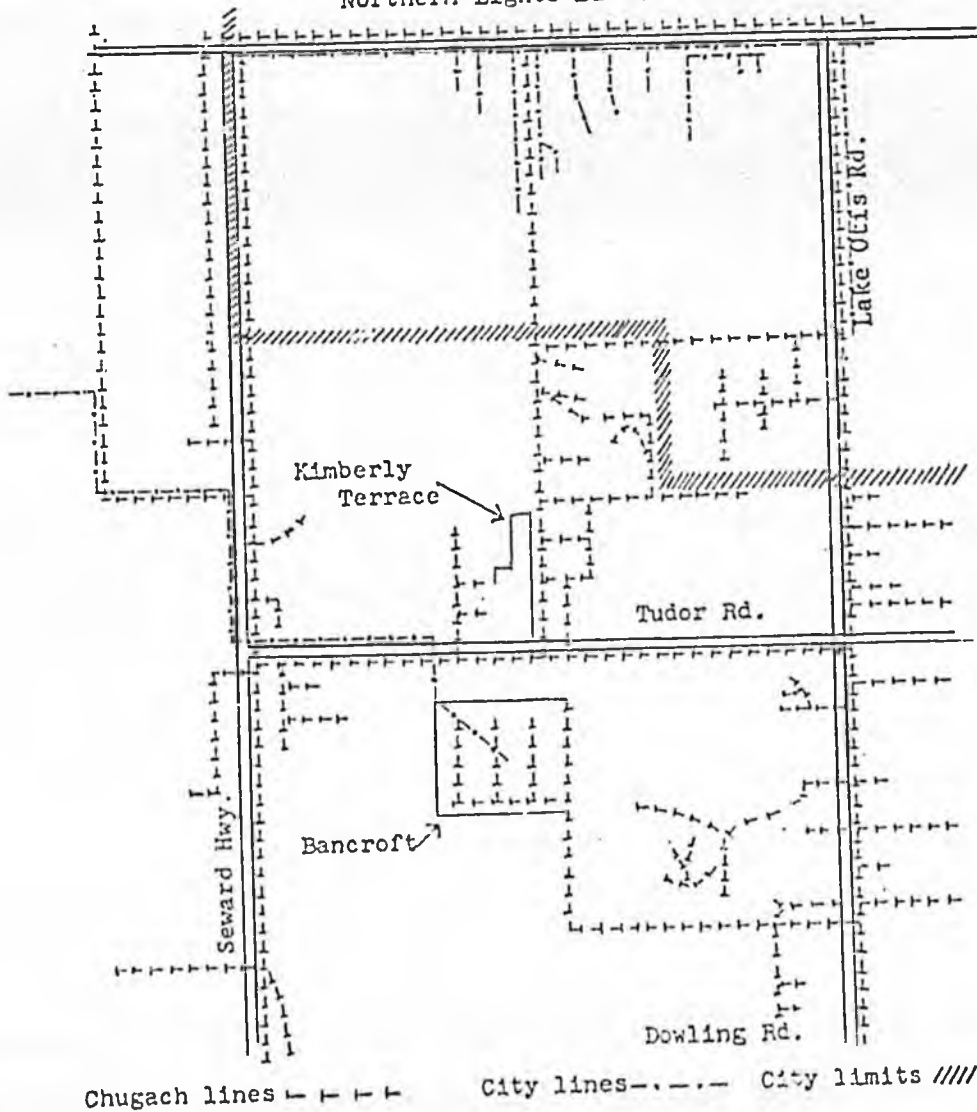
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CHUGACH ELECTRIC ASSOCIATION v. CITY OF ANCHORAGE Alaska 1005

Cite us, Alaska, 426 P.2d 1001

tion to the question presented was dependent upon legislative resolution. This appeal presents yet another facet of the still unresolved questions regarding the relationship between certificated utilities and municipally owned and operated utilities. The judgment entered below is affirmed.

APPENDIX  
Northern Lights Blvd.



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SENATE AMENDMENT

By Community & Regional Affairs Committee

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 11      LINE: 1

Between the words "city" and "incorporated", add "in the unorganized borough"

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 8      LINE: 26

1. Pg. 8, line 26, after "council" insert:  
"of a first class city."
2. Pg. 29, line 8, after "commission" insert:  
"of seven elected members"
3. Pg. 29, line 14, after "be" insert:  
"prepared by the petitioners and"
4. Pg. 29, line 14, delete:  
"incorporation"
5. Pg. 29, line 15, following petition, insert:  
"to incorporate a home rule municipality"
6. Pg. 63, line 7:  
delete "bill" and replace with "ordinance or resolution"  
delete "act" , and replace with "ordinance or resolution"
7. Pg. 63, line 26:  
delete "bill" and replace with "ordinance or resolution"  
delete "act" , and replace with "ordinance or resolution"
8. Pg. 64, line 15:  
delete "bill" and replace with "ordinance or resolution"

9. Pg. 82, line 18:  
after "emergency", add "services", and  
after "center" add "under AS 29.35.130"
10. Page 85, lines 4 and 5 -- subsection (c) is amended as follows:  
(c) A third class borough acquires an additional power to exercise in a service area in accordance with AS 29.35.490(b) and (c) [AREAS BY HOLDING AN ELECTION ON THE QUESTION IN WHICH EACH PERSON WHO IS A VOTER OF THE BOROUGH MAY VOTE].
11. Pg. 106, line 9, after "calculate" insert:  
"at the rate of one percent per mill"
12. Pg. 106, line 10 and 11, delete:  
"at the rate of one percent per mill"
13. Page 182, line 1 -- following "general law", delete:  
"first or second class"

SENATE AMENDMENT

BY SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 161      LINE: 20

Replace "29.60.120" with "29.60.130".

A M E N D M E N T

Offered in the SENATE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

TO: Senate Bill No. 1

Page 160, line 21:

After "purpose." delete all material through page 161, line 10, and insert:

"(b) The Department of Community and Regional Affairs with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid. If there is more than one qualified entity in an unincorporated community, the Department of Community and Regional Affairs shall select the entity that the department finds most qualified to receive and spend the money.

(c) After selecting an entity under (b) of this section the Department of Community and Regional Affairs shall provide public notice of the selection. The notice shall indicate that the selection is preliminary and other qualified entities may be nominated to receive the entitlement by filing a petition with the department. A petition must be signed by a number of voters of the unincorporated community equal to or greater than 15 percent of those who voted

during the last general election in the community. The department shall provide a sample petition upon request.

(d) If the Department of Community and Regional Affairs receives within 30 days after notice is provided under (b) of this section a sufficient petition nominating an entity other than the entity selected by the department, the department shall hold an election with the assistance of the director of elections to determine which entity shall receive the entitlement. The election shall be held within 90 days after notice is provided under (b) of this section. The department shall provide public notice of the date of the election.

(e) All voters who reside within the boundaries established for the purposes of determining the population of the unincorporated community are qualified to vote in an election held under this section. The name of the entity selected by the Department of Community and Regional Affairs under (b) of this section and the name of each entity nominated under (c) of this section shall be placed on the ballot. The department shall pay the entitlement for that year to the entity receiving the greatest number of votes.

(f) The Department of Community and Regional Affairs may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council."

Reletter the following subsection accordingly.

2/15/83

SENATE AMENDMENT

BY Senate Community & Regional Affairs Committee

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 62      LINE: 3

After "date.", add:

"The runoff election shall be between the two candidates receiving the greatest number of votes for the seat."

SENATE AMENDMENT

By COMMUNITY & REGIONAL AFFAIRS COMMITTEE

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 107      LINE: 26

After "borough", delete:

"including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period"

SENATE AMENDMENT

By COMMUNITY & REGIONAL AFFAIRS COMMITTEE

To: \_\_\_\_\_ SENATE BILL No. 1

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 61      LINE: 8

After "(3)", delete "is", and insert "has been"

After "elections", insert "for 30 days immediately preceding the election"

A M E N D M E N T

Offered in the SENATE

By Halford

TO: Senate Bill No. 1

Page 14, line 25:

Delete "." and insert ";"

Page 14, after line 25 insert:

"(4) standards and procedures governing detachment shall be identical to standards and procedures governing annexation, except that procedures governing detachment shall provide for equitable prorated payment of debts acquired by the municipality prior to the detachment."

A M E N D M E N T

Offered in the SENATE

By Halford

TO: Senate Bill No. 1

Page 14, line 25:

Delete "." and insert ";"

Page 14, after line 25 insert:

"(4) within 90 days after receipt of a petition for annexation or detachment the Local Boundary Commission shall make a decision on the petition."

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 1  
 Title "An Act Relating To Municipal Government"  
 Requested by Senator Gilman Date 2/1/83

II. FISCAL DETAIL

Agency Affected Dept. of Community & Regional Affairs  
 Program Category Affected Development  
 BRU, Program, Or Subprogram(s) Affected Local Government Assistance  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>0</b>	<b>100.0</b>	<b>150.0</b>	<b>625.0</b>		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	100.0	150.0	625.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE 1/27/83 PREPARED BY Terry Farley  
 AGENCY Community & Regional Affairs  
 Original: Legislative Finance PHONE 465-4730  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/82)  
 OMB Reviewed by: David Gentry *D. Gentry*

FISCAL NOTE  
"An Act Relating to Municipal Government"

Article 3 of the Bill appears to be the only portion that has fiscal impact on this Division. That Article "TRANSITIONAL ASSISTANCE" provides for organizational grants to newly formed and newly reclassified cities. These grants are \$50,000 the first year and \$25,000 the second year.

Additionally, the bill provides for organization grants to newly formed Boroughs in the following amounts:

\$300,000 for the first fiscal year  
\$200,000 for the second fiscal year  
\$100,000 for the third fiscal year

Finally, it provides for the department to establish an initial sales tax structure and an initial property tax structure.

Assumptions: In estimating the fiscal impact of the bill the following assumptions were made.

1. There would be two incorporations or reclassifications each year. This would produce an FY 84 cost of \$100,000.
2. There will be one Borough Incorporation in 1986. This incorporation would necessitate expenditure of the 3 step organization grant in 1986, 1987, and 1988. Based on this assumption it is also estimated that contractual costs for setting up the two tax systems would be \$350,000 in contractual costs spread over a 2 year period.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT

Section-by-Section Analysis  
SB 1

Sec. 29.03.030. This is added to the chapter dealing with the unorganized borough in order to cross-reference the section authorizing the division of lands to act as the platting authority in the unorganized borough.

CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.04.010. This section is altered to allow a city of any class to adopt a home rule charter, whereas existing law allows only a first class city to adopt a charter. Unified municipalities are included within the definition of home rule municipality. (AS 29.08.010)

Sec. 29.04.020. No change. (AS 29.08.020)

Sec. 29.04.030. No change. (AS 29.08.030)

Sec. 29.04.040. (a) The phrase "as provided in this subsection" is deleted as unnecessary. To reclassify as a first class city, a second class city must have 600 residents, whereas existing law requires only 400 residents for reclassification. (AS 29.08.040(a))

(b) No change. (AS 29.08.040(b))

(c) No change. (AS 29.08.040(c))

(d) Minor rewording, but no substantive change. (AS 29.08.040(d) and (e))

(e) "Department of Community and Regional Affairs" is altered to read "department". This bill adds "department" to the definitions section and uses that term throughout the title in place of "Department of Community and Regional Affairs". (AS 29.08.040(f))

Sec. 29.04.050. This deletes the provision for reclassification of a second class borough to a third class borough. (AS 29.08.040(g))

The material currently dealing with reclassification to third class status is deleted. (AS 29.08.040(h), and (j))

Sec. 29.04.060. (a) Minor rewording, but no substantive change. (AS 29.08.040(g) and (h))

(b) Minor rewording, but no substantive change.  
(AS 29.08.040(i))

#### CHAPTER 05. INCORPORATION.

Sec. 29.05.010. (a) A community that meets certain standards may incorporate as a home rule or first class city, whereas existing law provides for incorporation of a first class city only.  
(AS 29.18.011)

(1) A community must have 600 residents to incorporate as a home rule or first class city, whereas existing law requires 400 residents for incorporation as a first class city.  
(AS 29.18.011(a)(1))

(2) No change. (AS 29.18.011(a)(2))

(3) The term "local services" is altered to "municipal services". (AS 29.18.011(a)(3))

(4) The term "local government" is altered to "city government". (AS 29.18.011(a)(4))

(5) The term "local government" is altered to "city government". (AS 29.18.011(a)(5))

(b) No change. (AS 29.18.011(b))

Sec. 29.05.020. (a) No change. (AS 29.18.021(a))

(b) The term "organized borough" is altered to "borough", which is defined for the title. (AS 29.18.020(b))

Sec. 29.05.030. (a) This provides for incorporation of a home rule, first class, or second class borough, but not for incorporation of a third class borough. This section contains several technical changes. The term "organized borough" is replaced with "borough" since that is defined. The term "local services" is replaced by "municipal services". The term "local government" is replaced by "borough government" as being more precise since this section deals with the incorporation of boroughs and not cities. (AS 29.18.030)

(b) This is new and provides that an area may not incorporate as a third class borough.

Sec. 29.05.060. "Department of Community and Regional Affairs" is replaced by the word "department" which is defined for the title. The paragraphs are reorganized so that the most general requirements precede the most specific requirements for incorporation. (AS 29.18.050)

(7) Signature requirements apply to home rule and first class cities as a unit and then to the rest of the voters in the area of the proposed borough as another unit. Under existing law only first class cities are treated as a special unit for the purpose of gathering signatures. (AS 29.18.050(10))

(11) Signature requirements for incorporation of a first class city must also be complied with for incorporation of a home rule city. (AS 29.05.060(8))

(13) A new provision for incorporation of a home rule municipality requiring that a proposed home rule charter be filed with the incorporation petition.

Sec. 29.05.070. Minor rewording, but no substantive change. (AS 29.18.060)

Sec. 29.05.080. (a) Combines material currently found in two subsections. Adds requirement that notice of the meeting be published. "Published" is defined for the title. (AS 29.18.070(a) and (c))

(b) No change. (AS 29.18.070(b))

(c) No substantive change. (AS 29.18.080(a))

Sec. 29.05.090. "Department of Community and Regional Affairs" is altered to "department". (AS 29.18.080(b))

Sec. 29.05.100. No substantive change. (AS 29.18.090)

Sec. 29.05.110. This section contains a few minor changes, so that the use of language is consistent throughout the bill. The word "officer" is changed to "official" and that is the term used throughout. Currently, Title 29 uses the terms municipal "officer" and "official" interchangeably. Effective January 1, 1981, the director of elections became responsible for conducting state elections rather than the lieutenant governor and here the responsibility for the election is conferred on the director of elections. (AS 29.18.110)

Sec. 29.05.120. This section is reorganized. Current references to the lieutenant governor are changed to the director of elections. (AS 29.18.120)

(a) Contains material currently found in AS 29.18.120(b).

(b) Contains material currently found in AS 29.18.120(b).

(c) Contains material currently found in AS 29.18.120(b).

- (d) Contains material currently found in AS 29.18.120(c).
- (e) Contains material currently found in AS 29.18.120(d).
- (f) Contains material currently found in AS 29.18.120(e).

Sec. 29.05.130. The phrase "borough assembly or city council" is replaced by the phrase "governing body" which is defined for the title. The last line of the current section is dropped as no longer necessary. The provisions of this section apply to all organized boroughs whether incorporated or organized before or after September 10, 1972. (AS 29.18.130)

Sec. 29.05.140. Minor wording changes are made to improve readability and to insure that terms are used consistently throughout the title. (AS 29.18.140)

(d) Added to indicate that the section applies to home rule and general law municipalities, however, this is not a substantive change because the section currently applies to home rule municipalities under AS 29.13.100.

Sec. 29.05.150. No substantive change. (AS 29.18.150)

Sec. 29.05.180. This section now applies only to organization grants for cities. A new section has been added to the bill to deal with organization grants for boroughs. A newly incorporated city or a second class city that reclassifies shall be entitled to a first year organization grant of \$50,000 and to a second organization grant of \$25,000. Under existing law, a municipality is entitled to receive \$10 for every voter or \$25,000 minimum, and the municipality receives no grant the second year. (AS 29.18.180)

Sec. 29.05.190. This section deals with organization grants to boroughs only and applies to boroughs incorporated after July 1, 1983. A borough shall be entitled to a first year organization grant of \$300,000; a second year grant of \$200,000; and a third year grant of \$100,000. Under existing law a borough receives \$10 for every voter or a minimum \$25,000 grant. (AS 29.18.180)

Sec. 29.05.200. This is new material establishing an organization grant fund. The Department of Community and Regional Affairs is required to prepare a yearly report on the fund to be presented to the Department of Administration.

Sec. 29.05.210. This is new material which requires the Department of Community and Regional Affairs to determine the population of a newly incorporated borough, help the borough establish an initial assessment and collection department if it has adopted a

sales or use tax; and help the borough to determine the initial assessment roll if the borough has adopted a property tax.

#### CHAPTER 06. ALTERATION OF MUNICIPALITIES.

Sec. 29.06.010. The phrase "qualified voters voting on the question at a regular or special election" is replaced by "voters after an election". Both "voters" and "election" are defined for the title. References to the lieutenant governor are changed to the director of elections. (AS 29.73.050)

(d) This is added and applies the section to home rule municipalities. This is not a substantive change since the section is a home rule limitation under AS 29.13.100.

Sec. 29.06.040. This section contains only minor word changes so that language used in Title 29 which is defined is uniformly used throughout the title. (AS 29.68.010)

Sec. 29.06.050. No substantive change. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying all sections dealing with annexation as home rule limitations. The material contained in sec. 29.06.040 of this bill is currently a limitation on home rule municipalities.

Sec. 29.06.090. Adds a provision that a third class borough may not be formed through merger or consolidation. (AS 29.68.030)

Sec. 29.06.100. The word "existing" is added to make it clear that some requirements refer to an existing municipality and some to a proposed municipality. (AS 29.68.040)

Sec. 29.06.110. "Department of Community and Regional Affairs" is changed to "department". (AS 29.68.050, 29.68.060, 29.68.070(a))

Sec. 29.06.120. No substantive change. (AS 29.68.070(b))

Sec. 29.06.130. "Assembly or council" is changed to "governing body". Material contained in the last sentence under current law is placed into a new subsection (b). (AS 29.68.080)

Sec. 29.06.140. Material currently contained in AS 29.68.090(a) and (b) is combined into (a). The statutory reference in AS 29.68.090(d) is eliminated as unnecessary. References to "lieutenant governor" are changed to "director of elections". (AS 29.68.090)

Sec. 29.06.150. No substantive change. (AS 29.68.100)

Sec. 29.06.160. No substantive change. (AS 29.68.110)

Sec. 29.06.170. This is a new section providing that the article on merger and consolidation applies to home rule municipalities. These sections are currently applied to home rule municipalities under AS 29.13.100.

Sec. 29.06.190. No substantive change. (AS 29.68.240)

Sec. 29.06.200. No substantive change. (AS 29.68.250)

Sec. 29.06.210. "Unification" is added to make it clear that this is a special type of petition. (b)(1) and (2) are slightly rewritten for clarity. (AS 29.68.260)

Sec. 29.06.220. No substantive change. (AS 29.68.270)

Sec. 29.06.230. New section setting out duties of charter commission. (AS 29.68.350(a))

Sec. 29.06.240. This is rewritten for clarity. Under existing law membership is divided between the area outside cities and the area inside cities. This approach is altered so that membership is divided between the area outside home rule and first class cities and the area inside home rule and first class cities in the borough. (AS 29.68.310)

Sec. 29.06.250. (a) No substantive change. (AS 29.68.280)

(b) No substantive change. (AS 29.68.290(a))

(c) No substantive change. (AS 29.68.290(b))

(d) This is new material providing that a resolution or petition for unification is void if insufficient nominations are received for the charter commission.

Sec. 29.06.260. No substantive change. (AS 29.68.300)

Sec. 29.06.270. (a) The question submitted is whether a charter commission shall be formed, not whether unification shall take place. (AS 29.68.320(a) and (b))

(b) No substantive change. (AS 29.68.320(c))

(c) No substantive change. (AS 29.68.320(d))

Sec. 29.06.280. Reworded to clarify that formation of a charter commission is being considered, not unification. (AS 29.68.330)

Sec. 29.06.290. No substantive change. (AS 29.68.340(a) - (d))

Sec. 29.06.300. No substantive change. (AS 29.68.340(e),  
29.68.390(e))

Sec. 29.06.310. No substantive change. (AS 29.68.340(f))

Sec. 29.06.320. The language "at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter" is deleted since this appears elsewhere. Parts have been slightly rewritten for clarification and statutory references to other sections in AS 29.68.350(a)(5) and (7) are deleted as unnecessary. AS 29.68.350(b) is deleted as unnecessary. (AS 29.68.350)

Sec. 29.06.330. Some excessive verbage is eliminated. (AS 29.-  
68.360)

Sec. 29.06.340. No substantive change. (AS 29.68.370)

Sec. 29.06.350. The language "once in at least one newspaper having general circulation distributed within the borough, if there is a newspaper having general circulation distributed in the borough" is eliminated as unnecessary since "published" is defined for the title. (AS 29.68.380)

Sec. 29.06.360. (a) No substantive change. (AS 29.68.635(a),  
29.68.390(a))

(b) No substantive change. (AS 29.68.390(b))

(c) No substantive change. (AS 29.68.390(c))

(d) No substantive change. (AS 29.68.390(d))

Sec. 29.06.370. The statutory reference to the article on unification is eliminated as unnecessary. (AS 29.68.400)

Sec. 29.06.380. This section is slightly reworded for clarity.  
(AS 29.68.410)

Sec. 29.06.390. This section is slightly reworded for clarity.  
(AS 29.68.420)

Sec. 29.06.400. This is reworded for clarity and the statutory reference to the unification article is deleted as unnecessary.  
(AS 29.68.430)

Sec. 29.06.410. (2) is changed so that it is clear that a unified municipality has the powers of a home rule borough, since a unified municipality is a home rule unit of government.  
(AS 29.68.440)

Sec. 29.06.420. This is a new section making the provisions dealing with unification applicable to home rule municipalities. Although annexation, merger and consolidation, and dissolution are currently home rule limitations, the sections dealing with unification are not applicable to home rule municipalities as limitations under existing law.

Sec. 29.06.450. No changes other than changes in terminology used consistently throughout in this bill. (AS 29.68.500)

Sec. 29.06.460. No changes except for minor rewording for clarity. (AS 29.68.510)

Sec. 29.06.470. No changes, except for minor rewording for clarity. (AS 29.68.520)

Sec. 29.06.480. "Department of Community and Regional Affairs" is altered to "department". (AS 29.68.530, 29.68.540)

Sec. 29.06.490. No changes except for minor rewording for clarity. (AS 29.68.550)

Sec. 29.06.500. (a) No change. (AS 29.68.560)

(b) Provides for an administrative appeal of a Local Boundary Commission decision.

Sec. 29.06.510. Material contained in AS 29.68.570(a) and (b) is consolidated into (a). References to the "lieutenant governor" are changed to the "director of elections", who is now in charge of state elections. (AS 29.68.570)

Sec. 29.06.520. The statutory reference contained in existing law is deleted as unnecessary. (AS 29.68.580)

Sec. 29.06.530. This is a new section providing that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100 makes these sections applicable to home rule municipalities under current law.

#### CHAPTER 10. HOME RULE MUNICIPALITIES.

Sec. 29.10.010. A city or borough of any class may adopt a home rule charter, but a second class city must have at least 600 residents before it may adopt a charter. This is a significant change from existing law which allows first class boroughs and cities, and second class boroughs to adopt a charter, but does not authorize a second class city to adopt a charter. (AS 29.13.010)

(b) This is new and allows an unincorporated community with at least 600 residents to adopt a charter and incorporate as a home rule city.

(c) This is new and allows an area in the unorganized borough to adopt a charter and incorporate as a home rule borough.

(e) This is new and requires the proposed charter for an unincorporated community or area to be filed with the incorporation petition.

Sec. 29.10.020. This is new and requires the Department of Community and Regional Affairs to prepare model charters to be available to persons interested in filing a petition to incorporate a home rule municipality.

Sec. 29.10.030. No substantive change. (AS 29.13.050)

Sec. 29.10.040. (a) This has been reworded slightly, but contains no significant changes. (AS 29.13.010)

(b) No substantive change. (AS 29.13.020)

(c) This is new material providing that if enough nominations for candidates are not filed no election is held on the question of forming a charter commission.

Sec. 29.10.050. Changed to reflect the fact that a charter commission is elected only in an existing municipality considering the question of home rule. For incorporation of a home rule municipality, the charter is prepared and filed by the petitioners with the incorporation petition. (AS 29.13.030)

Sec. 29.10.060. The clerk shall have the charter published, which is defined, and shall make copies available. Under existing law the governing body is responsible for publishing a charter. (AS 29.13.040)

Sec. 29.10.070. "Municipal" is deleted as no longer necessary as "voter" is defined. "Regular or special" is deleted since "election" is defined. Adds a provision that a proposed charter for an unincorporated community or area shall be voted on at the incorporation election. (AS 29.13.060)

Sec. 29.10.080. (a) The provision that the charter becomes effective on the date the election is certified has been added. (AS 29.13.070)

(b) This is new and authorizes voters to determine if a combined assembly and school board should be retained when voting on adoption of a home rule charter in a third class borough.

Sec. 29.10.090. (a) No substantive change. (AS 29.13.070(b))

(b) This is new providing that if incorporation of a home rule municipality is rejected, the proposed charter is rejected as well.

Sec. 29.10.100. The provision that a charter may be amended by initiative referendum has been deleted. The charter is amended as provided in the charter itself. (AS 29.13.080)

Sec. 29.10.200. The following paragraphs contain sections which are added to the limitations of home rule powers:

- (5) unification of municipalities;
- (10) legislative power;
- (11) assembly composition and apportionment (only one section on assembly composition and reapportionment, AS 29.23.021 which is, now sec. 29.60.060, is a limitation under existing law), however, AS 29.20.033 provides that the other section might apply to some home rule municipalities;
- (12) qualifications of members of governing bodies;
- (14) executive power;
- (27) alcoholic beverages;
- (31) assessment and collection of taxes;
- (32) land use regulation;
- (36) title to vacated areas;
- (38) property taxes (this adds sec. 29.45.450 - 500 and sec. 29.45.550 to the limitations listed under existing law);
- (42) construction;
- (46) general grant land;

The following paragraphs under AS 29.13.100 no longer appear as limitations:

- (4) election and term of mayor;
- (8) municipal elections (material now contained in AS 29.28.010 is not a limitation under this bill; material in AS 29.28.020(b) is expanded so that the notice requirement covers both regular and special elections and the requirement is a limitation under this bill);

(15) borough building code jurisdiction within cities (the material is deleted from this bill);

(20) expenditures of borough revenue;

(25) bond attorneys (the material is deleted from this bill);

(35) bonded debt for school construction (the material is deleted from this bill);

(37) zoning of state land for homesite entry (this was repealed in 1979);

(39) applicability of local platting regulations (the material is deleted from this bill);

(40) expulsion of borough assemblymen (this material is substantially rewritten and not made binding upon home rule municipalities);

(41) removal of borough mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);

(42) expulsion of city councilmen (this material is substantially rewritten and not made applicable as a home rule limitation);

(43) removal of mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);

(44) expulsion, removal from office (this material is substantially rewritten and not made applicable as home rule limitation).

#### CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

Sec 29.20.010. Each municipality must adopt a conflict of interest ordinance. A member of the governing body shall declare a financial interest he has in an official action and ask to be excused. The presiding officer rules on the question and his decision may be overridden. Under existing law an officer or employee is required to disqualify himself from participating in an official action in which he has a substantial financial interest. (AS 29.23.555)

Sec. 29.20.020. "Assembly and council" is altered to "governing body" and the section is divided into subsections for ease of use. (AS 29.23.580)

Sec. 29.20.050. The second sentence is new material, however it does not substantively change existing law since it can be implied that the legislative power of a city is vested in the council. This is made applicable as a home rule limitation. (AS 29.23.010)

Sec. 29.20.060. No substantive change. This is made specifically applicable to home rule municipalities, but is a home rule limitation now under AS 29.13.100(3). (AS 29.23.021)

Sec. 29.20.070. "Borough" is dropped before the word "assembly" when it appears and "assembly" is defined for the title. The statutory reference contained in AS 29.23.023(e)(1) is deleted as unnecessary since "unified municipality" is defined. (AS 29.23.023)

Sec. 29.20.080. "Borough" is deleted as unnecessary when it appears before the word "assembly". In (e) "of the Department of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.025)

Sec. 29.20.090. "Borough" is deleted as unnecessary when it appears before "assembly". "Of Community and Regional Affairs", appearing several times in the section, is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect renumbering. (AS 29.23.027)

Sec. 29.20.100. "Borough" is deleted where it appears before "assembly". "Of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.029)

Sec. 29.20.110. Statutory references are altered to reflect new numbering. (AS 29.23.031)

AS 29.20.120. The statutory reference in (1) is deleted since "unified municipality" is defined for the title. Statutory references are revised to reflect new numbering. (AS 29.23.033)

Sec. 29.20.130. No change. (AS 29.23.200(a))

Sec. 29.20.140. This section is substantially rewritten to combine material concerning the qualifications for membership in assemblies with material concerning the qualifications for membership in councils.

(a) Rewritten, but no substantive change. (AS 29.23.050, 29.-23.200(b))

(b) Combines material currently found in different sections. (AS 29.23.050, 29.23.200(b))

(c) This contains new material allowing a municipality to establish district residency requirements for members of the assembly or council. Current law allows an assemblyman elected from one district who becomes a resident of another district to serve only until the next regular election. The subsection allows a municipality to provide otherwise by ordinance. It is also made applicable to city councils. Under existing law a council may be elected by district rather than at-large, but no provision deals with the possibility that a councilman might change his district residency. (AS 29.23.050, 29.23.200(a))

(d) New material prohibiting a municipality from limiting the number of terms or number of consecutive terms a voter may serve on the assembly or council, unless the limit is ratified.

(e) This is applicable to both home rule and general law municipalities. Under current law the qualifications for assemblymen are applicable to home rule and general law municipalities but the qualifications for city councilmen are not. (AS 29.23.050, 29.23.200)

Sec. 29.20.150. Combines material dealing with the term of office of members of the assembly with material dealing with the term of office of members of the council.

(a) This is substantially rewritten, however, the only substantive change is that members of the council may serve different terms when allowed by charter, as well as by ordinance. (AS 29.23.040(a), 29.23.200(c))

(b) No substantive change. (AS 29.23.040(a), 29.23.200(c))

(c) The material permitting a different date to be prescribed by charter or ordinance is made applicable to city councils. (AS 29.23.040(b), 29.23.200(c))

(d) This is added as a home rule limitation with respect to city councils. (AS 29.23.040(c))

Sec. 29.20.160. Combines material dealing with assemblies and with councils into one section.

(a) The last line dealing with the presiding officer is new material as it applies to the council. (AS 29.23.060(b), 29.23.240)

(b) The material dealing with the calling of a special meeting is substantively changed. Under existing law a special meeting may not be called unless all members receive 24 hours written notice or, if there is an emergency and all absent members waive the notice. As rewritten, a special meeting may be held if a majority

of the members receive 24 hours notice and reasonable efforts are made to notify all members. (AS 29.23.060(a), 29.23.210(a))

(c) A member of the governing body disqualified from voting is considered present for purposes of constituting a quorum. A majority of the membership of a council constitutes a quorum, while under existing law four councilmen constitute a quorum. This is not a substantive change, since a first class city has a council of six members and second class city has a council of seven members. Four councilmen are still required for a quorum. (AS 29.23.060(d), 29.23.210(c))

(d) Actions are adopted by a majority of the total membership of the governing body, while under existing law actions are adopted by a majority of votes authorized on the question. All members vote and unless they are required to abstain by law, while under existing law a member may abstain if permitted by the governing body, and must abstain if he has a substantial financial interest in the question. This section is applicable to city councils as well as to assemblies. (AS 29.23.060(d), 29.23.210(c))

(e) Specifically provides that the journal shall be a public record. (AS 29.23.060(c), 29.23.210(b))

(f) Requires a governing body to determine by ordinance its rules and order of business. (AS 29.23.060(c), 29.23.210(b))

Sec 29.20.170. This allows the governing body to prescribe the manner in which a vacancy occurs in any elected office, other than the office of mayor or member of the school board. The governing body is required to declare an elective office vacant under specific conditions, unless a municipality establishes otherwise by ordinance. (AS 29.23.060(c), 29.23.080, 29.23.210(b), 29.23.220, 29.23.570)

Sec. 29.20.180. (a) Requires a vacancy to be filled within 30 days unless a different period is established by ordinance. If less than 30 days remain in a term, a vacancy need not be filled, unless filling the vacancy is necessary to preserve a quorum. The material contained in AS 29.23.080 dealing with filling a vacancy in dual assembly council seats has been deleted. (AS 29.23.080, 29.23.220)

(b) This is new material requiring appointments within seven days if needed to preserve a quorum.

(c) No substantive change. (AS 29.23.080, 29.23.220)

Sec. 29.20.220. This section is substantially rewritten to combine material dealing with the mayor of a city with material dealing with the mayor of a borough.

(a) This is a clear statement that the executive power is vested in a mayor, which is only implied with reference to cities under current law. The mayor of a home rule or unified municipality is elected by the voters, which is not a substantive change. (AS 29.23.200(a) and (c), 29.23.240)

(b) This material currently exists with respect to city mayors but not with respect to borough mayors, although these duties may be implied for borough mayors. The language "and is responsible for additional duties and powers prescribed by this chapter or by home rule charter" is new, but is not a substantive change. (AS 29.23.240)

(c) This section is a limitation on home rule municipalities. Under existing law it is not listed as a limitation.

Sec. 29.20.230. This is substantially rewritten in order to combine material dealing with the election and term of a borough mayor and a city mayor.

(a) No substantive change. (AS 29.23.130(c), 29.23.250(b) and (d))

(b) Allows a second class city to provide by ordinance for a term longer than one year for the office of mayor, as long as the mayor is a member of the council. Existing law provides a one-year term of office for the mayor of a second class city. (AS 29.23.250(c) and (d))

(c) This is new material providing that the number of terms or number of consecutive terms a mayor may serve may not be limited.

Sec. 29.20.240. Rewritten to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.130(b), 29.23.250(a) and (c))

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated. This section is not a limitation on home rule governments, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority. (AS 29.23.130(b), 29.23.250(a))

Sec. 29.20.250. This is rewritten to combine sections dealing with a city and sections dealing with a borough, and to achieve a clear statement of existing law.

(a) No substantive change. (AS 29.23.130(a), 29.23.290)

(b) Authorizes the mayor of a borough with a manager form of government to vote in the case of a tie. The fact that a mayor may take part in discussions is not stated with respect to the mayor of a city under existing law. (AS 29.23.160, 29.23.260)

Sec. 29.20.260. No change, except for minor rewording for clarity. (AS 29.23.150)

Sec. 29.20.270. This is substantially rewritten in order to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.270(a))

(b) The material requiring that a veto be overridden within 21 days after the exercise of the veto or during the next regular meeting is new. Current law does not specify a time period during which a veto may be overridden. (AS 29.23.170(a), 29.23.270(a))

(c) A veto does not extend to actions of a city council sitting as a board of equalization or a board of adjustment, nor may the city mayor veto the adoption or repeal of a manager form of government. Current law is silent as to these issues with respect to a city. (AS 29.23.170(a) and (b), 29.23.270)

(d) No change. (AS 29.23.270(b))

Sec. 29.20.280. (a) Under existing law the governing body has the option of declaring the office of mayor vacant when he is convicted of a corrupt practice. (AS 29.23.130(f), 29.23.255, 29.23.570)

(b) No substantive change. (AS 29.23.180, 29.23.280(a))

(c) No substantive change. (AS 29.23.280(b))

Sec. 29.20.300. The statutory reference to a repealed section is deleted. School board members may be elected by area rather than at-large, if approved by the voters. (AS 29.23.310)

Sec. 29.20.310. No change, except for minor rewording so the usage is consistent throughout the title. (AS 29.23.340)

Sec. 29.20.320. This is new material allowing the governing body to establish boards and commissions. Arguably, this power is implied to exist in current law as part of the ability of a governing body to delegate responsibility. (AS 29.48.010(1))

Sec. 29.20.360. Certain officials shall be appointed by the chief administrator unless otherwise provided by ordinance. Under

current law these officials are appointed by the chief administrator or by the governing body as determined by ordinance. Current law provides that appointments by the chief administrator are subject to confirmation, and this section allows a municipality to provide otherwise by ordinance. (AS 29.23.360)

Sec. 29.20.370. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.23.371)

Sec. 29.20.380. No change, except for minor rewording in order to achieve consistent usage. (AS 29.23.380)

Sec. 29.20.390. The statutory reference is added to provide notice that, when a central treasury is established for the school board and the municipality, the treasurer is not custodian of the funds. (AS 29.23.390)

Sec. 29.20.400. Slightly reworded for clarity. (AS 29.23.070)

Sec. 29.20.410. Allows the governing body to provide for a classified service and to designate positions which are wholly or partially exempt from the classified service. (AS 29.23.550)

Sec. 29.20.460. No change, except for minor rewording to achieve consistent usage. (AS 29.23.410, 29.23.420)

Sec. 29.20.470. The last line dealing with notice requirements is omitted because notice requirements for elections are now contained in Sec. 29.26.030. At least 20 days notice shall be provided, while under current law 30 days notice is required before an election to adopt a manager plan. (AS 29.23.430)

Sec. 29.20.480. No change, except for minor rewording to achieve consistent usage. (AS 29.23.440)

Sec. 29.20.490. In the second line the word "solely" and the word "executive" have been omitted, so that the manager is to be chosen on the basis of his administrative qualifications. A member of the governing body may not be appointed manager until one year after leaving office unless authorized by more than a majority vote. Under existing law this limitation applies to all elected municipal officials. (AS 29.23.450, 29.23.460)

Sec. 29.20.500. This is substantially rewritten so that material dealing with duties of a city manager and material dealing with duties of a borough manager are combined. A statutory reference to the section concerning appointment of school employees is added for clarification. The requirement that the manager prepare and make available to the public an annual report on municipal affairs is deleted. AS 29.23.140(10)(A) and (C), requiring the borough manager to administer functions of borough employees and to

administer public works is deleted because those requirements appear adequately covered by (1) and (5) of this section. (AS 29.23.140, 29.23.290)

Sec. 29.20.510. Rewritten slightly for clarity. (AS 29.23.130(e))

Sec. 29.20.520. After repeal of a manager plan, the governing body has 60 days to reorganize the municipal executive and administrative functions. Under existing law, no time period is provided for reorganization. (AS 29.23.480)

Sec. 29.20.600. No change, except for rewording to achieve uniform usage. (AS 29.23.500)

Sec. 29.20.610. No change, except for minor rewording to achieve uniform usage. (AS 29.23.520)

Sec. 29.20.620. A method of determining salaries shall be provided by ordinance, while under current law the governing body fixes by ordinance the salaries of elected officials. The salary of the mayor may be reduced during his term of office if a manager plan is adopted. An elected official may not receive compensation for additional service to the municipality, unless provided otherwise by ordinance. (AS 29.23.530)

Sec. 29.20.630. Material currently contained in AS 29.23.540(a) is deleted. Subject to requirements contained in the title dealing with education, a school district employee, or state employee may not be denied the right to serve as an elected municipal official. Current law allows a municipality to prohibit the right to serve by charter or ordinance. (AS 29.23.540)

Sec. 29.20.640. No changes, except for rewording for consistency and changes in statutory references to reflect renumbering. (AS 29.23.560)

## CHAPTER 25. MUNICIPAL ENACTMENTS.

Sec. 29.25.010. The governing body is no longer required to fix the compensation of members of the assembly or council by ordinance, nor is it required to regulate the rate charged by a public utility by ordinance. (AS 29.48.130)

Sec. 29.25.020. This is substantially reorganized, but contains no substantive changes. (AS 29.48.140, 29.48.150)

Sec. 29.25.030. No change, except for minor word changes in order to achieve maximum clarity. (AS 29.48.160)

Sec. 29.25.040. Requires the governing body to see that the adopted code is made available to the public at no more than cost,

while existing law requires the governing body to provide for the adopted code to be sold to the public. (AS 29.48.170)

Sec. 29.25.050. (b) allows the designee of the municipal clerk to prepare a general codification of municipal ordinances and deletes the requirement that the codification be prepared with the assistance of a legal advisor. The rest of the section is unchanged. (AS 29.48.180)

Sec. 29.25.060. This has been made applicable as a home rule limitation. (AS 29.48.185)

Sec. 29.25.070. A penalty not to exceed that imposed for a class B misdemeanor may be imposed for a violation of an ordinance. The maximum fine for a class B misdemeanor is \$1,000 and the maximum sentence of imprisonment is 90 days. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. A mandatory, nonsuspendable term of imprisonment for 5 days may be imposed for violation of an ordinance. The municipality or aggrieved person may institute a civil action against a person who violates an ordinance, and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and, upon a finding of a violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues is a separate violation. These penalties are authorized only if copies of the ordinance are made available. (AS 29.48.200)

#### CHAPTER 26. ELECTIONS.

Sec. 29.26.010. A judge shall be a voter of the precinct for which he is appointed unless no voter is willing to serve. The language "the municipality may not alter voter qualification requirements of this title" is deleted as unnecessary. This is no longer a limitation on home rule municipalities. (AS 29.28.010)

Sec. 29.26.020. The language "subject to other provisions of this title" is added because other sections in the title provide a procedure for the nomination of candidates, for example, see secs. 29.06.250 and 29.10.040. (AS 29.28.015)

Sec. 29.26.030. At least 20 days notice of a regular or special election is required. This applies as a limitation on home rule municipalities, whereas under existing law only the notice requirement for a special election applies. (AS 29.28.020(b))

Sec. 29.26.040. No change, except for minor rewording for clarity. (AS 29.28.020(a))

Sec. 29.26.050. This has been reorganized. A municipality may require a person to be registered to vote in the precinct in which he seeks to vote. (AS 29.28.030)

Sec. 29.26.060. The runoff election requirement is limited to the office of mayor, member of the governing body, or school board and the municipality may adopt an ordinance to alter this runoff requirement. A runoff election shall be held three weeks after the date of certification of the original election, rather than within two weeks. (AS 29.28.040)

Sec. 29.26.070. This has been rewritten for clarity. A requirement that the governing body authorize the election results to be certified is added in (c). The provision that expulsion of certain officials is final and not subject to judicial review contained in AS 29.28.050(f) is deleted. In this bill there is no provision denying judicial review in cases involving the declaration of vacancy in office. (AS 29.28.050)

Sec. 29.26.100. No substantive change. (AS 29.28.060)

Sec. 29.26.110. This is new material establishing a process for applying for a petition for initiative or referendum. An application is signed by ten voters who sponsor the petition. If the clerk finds that an application is in proper form and that the four listed requirements are met, he shall certify the application. A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Within two weeks after certification of application a petition is prepared by the municipal clerk. Signatures must be obtained within 60, rather than 90 days from the date the petition is first circulated. Spaces are provided for signatures, the printed name of each signer, the date signature is affixed, and the residence and mailing addresses of each signer. Each petition contains a statement that the sponsor circulated the petition, that all signatures were fixed in his presence, and that he believes the signatures to be those of the persons whose names they purport to be. Spaces are provided for indicating the total number of signatures on a petition. If the petition consists of more than one page, each page contains a summary of the matter to be initiated or referred. Copies of the petition are supplied to each sponsor. (AS 29.28.065)

Sec. 29.26.130. Signatures must be secured within 60, rather than 90 days. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The number of signatures required remains identical to the number required under current law, except that no provision is made for signatures only from persons in services areas or outside cities when the matter to be initiated or referred applies only to the service area or area

outside cities. Illegible signatures must be rejected by the clerk, whereas under existing law they may be rejected. A signer may withdraw his signature before certification of the petition, whereas under existing law he may only withdraw his signature within 7 days after the petition is filed. (AS 29.28.070)

Sec. 29.26.140. All copies of a petition are filed as a single instrument. An insufficient petition may be supplemented only with signatures obtained within ten days after the date the petition is rejected, while under current law there is no requirement that the signatures be obtained during this period. (AS 29.28.073)

Sec. 29.26.150. No change, except for minor rewording for consistency. (AS 29.28.075)

Sec. 29.26.160. "On substantially the same matter" has been added so that it is clear that the waiting period for filing a new petition does not apply if the petition sought to be filed deals with a different subject. (AS 29.28.077)

Sec. 29.26.170. Unless the same measure is adopted, the clerk submits a petition seeking an initiative vote to the voters at the next regular election occurring no sooner than 45 days after certification of the petition, or, if no regular election occurs within 75 days, a special election is held. If the governing body adopts the same measure, the petition is void and the subject is not placed before the voters, while under existing law the governing body may not adopt an ordinance or resolution within 10 days from the date of election. If the vote is favorable, the ordinance or resolution becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution, while under existing law an ordinance or resolution becomes effective when the election results are declared. There is no provision for the governing body to reject a petition, as there is in current law. (AS 29.28.080)

Sec. 29.26.180. When a petition seeks a referendum vote the clerk shall submit the matter to the voters in the same manner as provided for an initiative election. Under current law the vote is held during the next regular or special election, or within 75 days of filing the petition. If a petition is certified before the effective date of the matter referred, the ordinance or resolution is suspended, while under existing law the suspension occurs if a sufficient petition is filed within 30 days after passage of the ordinance or before the effective date of the ordinance. If the governing body repeals the ordinance or resolution, the petition is void and no election is held. If a majority vote does not favor repeal of the matter referred, it remains in effect, or, if it has been suspended becomes effective upon certification of the election. Existing law is silent as to the effective date of a suspended ordinance in this situation. (AS 29.28.090)

Sec. 29.26.190. If adopted in an initiative election or if adopted after a petition has been filed, an ordinance or resolution may not be repealed or amended within one year. If an ordinance or resolution is repealed in a referendum election, or after a petition has been filed, similar legislation may not be enacted for a period of one year. Existing law provides that the governing body may not act in any way within two years to modify or negate the effect of a successful initiative or referendum and if an ordinance has been repealed after a petition has been filed, the governing body may not enact similar legislation for one year. (AS 29.28.110)

Sec. 29.26.240. This is broadened to include an official appointed to elected office, because when a vacancy occurs an official may, in certain cases, be appointed. He will be subject to recall just as an elected person would be. An official may be recalled when he has served six months of a term for which elected or appointed, while under existing law there is some ambiguity as to the status of an official who is reelected to the same office. (AS 29.28.130)

Sec. 29.26.250. No change. (AS 29.28.140)

Sec. 29.26.260. This is new material establishing a procedure for applying for a recall petition. The application must contain information concerning 10 voters who will sponsor the petition, the address to which correspondence relating to the application may be sent, and a statement in 200 words or less of the grounds of the recall. Additional sponsors may be added.

Sec. 29.26.270. A recall petition is prepared by the clerk. It contains the names of the official sought to be recalled, the grounds for recall, the date the petition is issued by the clerk, notice that the signatures are secured within 60 days after the date the petition is issued (while under existing law a petition must be filed within 60 days after the date of the earliest signature on it), spaces for signatures, printed name, date of each signature, and residence and mailing addresses of each signor, a statement that the sponsor personally circulated the petition, all signatures were fixed in his presence, and he believes the signatures to be those of the persons they purport to be, and space for indicating the number of signatures on the petition. Copies of the petition are provided to each sponsor. (AS 29.28.150)

Sec. 29.26.280. Signatures are secured within 60 days after a recall petition is issued. Signatures not accompanied by a legible residence address are rejected. The clerk determines the number of signatures required and informs each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of voters residing in the

district equal to 25 percent of the number of votes cast in that district for the office. Under existing law signature requirements are identical to the requirements for initiative and referendum. (AS 29.28.150, 29.28.160)

Sec. 29.26.290. Copies of a recall petition are filed as a single instrument. An insufficient petition may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, while under existing law there is no requirement that the signatures be obtained during that time period. A petition which does not contain an adequate number of signatures, both valid and invalid signatures, may not be supplemented and this is a new provision not contained in existing law. (AS 29.28.160, 29.28.170)

Sec. 29.26.300. Reworded so that it is clear that the six-month waiting period before a new petition may be obtained applies only to a petition seeking to recall the same official. (AS 29.28.180)

Sec. 29.26.310. No change, except for minor rewording for consistency. (AS 29.28.190)

Sec. 29.26.320. The requirement that an election to recall an official not be held sooner than 45 days after submission of the petition to the governing body is added. The governing body may not appoint to the same office an official who resigns after a petition is filed. (AS 29.28.200)

Sec. 29.26.330. The grounds for recall must be stated in 200 words or less. (AS 29.28.210)

Sec. 29.26.340. The provision that an office becomes vacant upon certification of the election is added. (AS 29.28.230, 29.28.240)

Sec. 29.26.350. When an official is recalled, his office is filled in accordance with the provision dealing with vacancies. If all members of a governing body are recalled the governor appoints three persons and they appoint additional members needed to fill vacancies in accordance with the provisions dealing with vacancies. If all members of the school board are recalled the governor appoints three persons and they appoint additional members to fill remaining vacancies. A person appointed by the governor serves until a successor is elected. After an official is recalled, the clerk conducts an election for a successor. The election is held not more than 60 days from the date the recall election is certified unless a regular election is held within 75 days, in which case the successor is chosen at the regular election. Nominations may be filed until seven days before the last date upon which notice of the election must be published, but they may not be filed until the election is certified. Under existing law the election of successor shall be held at least ten but not more than 45 days from the date

of the recall election and there are no provisions dealing with a situation involving the recall of all members of the governing body or school board. (AS 29.28.250)

Sec. 29.26.360. The sections dealing with recall are made applicable as limitations on home rule municipalities, and are currently limitations under AS 29.13.100(9).

#### CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

##### Sec. 29.35.010.

- (1) No change. (AS 29.48.010(2))
- (2) No change, except for rewording due to a change in organization. (AS 29.23.510)
- (3) No change. (AS 29.48.010(1))
- (4) Minor rewording. (AS 29.48.010(5))
- (5) Minor rewording. (AS 29.48.010(3))
- (6) "and impose liens for their enforcement" is added. (AS 29.48.010(7))
- (7) No change. (AS 29.48.010(8))
- (8) "for a purpose authorized under this title, federal law, or other law, or in accordance with such law" is deleted as excessive verbage. (AS 29.48.010(9))
- (9) "facility or service" is added. (AS 29.48.010(11))
- (10) This is added as a general power. Under existing law the power may be exercised by a first class borough on a nonareawide basis, so long as the borough seeks to have it transferred from cities or proposes joint city/borough exercise of the power. A first class borough may exercise the power on an areawide basis if it is assumed. A second class borough may exercise the power on an areawide or nonareawide basis if it is assumed. (AS 29.38.010, 29.48.035(a) and (b))
- (11) No change. (AS 29.48.010(12))
- (12) Minor rewording. (AS 29.48.010(10))
- (13) Minor rewording. (AS 29.48.010(4))
- (14) No change. (AS 29.48.010(6))

Sec. 29.35.020. A municipality may not exercise outside of its boundaries a power which it may not exercise within its boundaries. The word "roads" has been changed to "streets" which is defined for the title. The following have been included within the list of facilities which a municipality may provide outside its boundaries: solid and septic waste facilities, utility services, transportation facilities, wharves, harbors and other marine facilities. A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Existing law provides that a municipality may regulate a facility outside its boundaries, and provides no right for the municipality within which the facility is located to regulate it. (AS 29.48.037)

Sec. 29.35.030. Allows all classes of municipalities to exercise eminent domain and declaration of taking. Under existing law a second class city may not exercise the power without formal approval of the Department of Community and Regional Affairs, and must exercise the power by ordinance approved by the voters. This is a limitation on home rule municipalities, and is an existing limitation under AS 29.13.100(29). (AS 29.73.020)

Sec. 29.35.040. This becomes applicable when a disaster is declared by the governor as well as by the President. Since (a) allows a municipality within a disaster area to exercise the powers in the same manner as a home rule city, the subsection providing that differences between areawide and nonareawide powers do not apply has been eliminated as redundant. (AS 29.48.270)

Sec. 29.35.050. This is reorganized and minor changes are made to the wording for clarity. The phrase "provide the charges for collection and disposal shall be paid by the property owner or occupants of the premises" is eliminated as implied within the specified ability to fix charges. (AS 29.48.033)

Sec. 29.35.060. (a) The language "for the construction, operation and maintenance of bus transportation systems and public utilities" is eliminated, so that franchises and permits may be granted without restrictions as to type of franchise involved. This applies only to an entity not certificated by the Alaska Public Utilities Commission. (AS 29.48.050(a))

(b) Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of any exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system which is not certificated is valid only if approved by vote. Under existing law no franchise is valid unless it is submitted to the qualified voters for approval. The material dealing with use of streets by utilities contained in AS 29.48.040(c) is deleted. (AS 29.48.050(b))

Sec. 29.35.070. The governing body may regulate a utility rate to the extent that it is not subject to regulation by the state and to the extent not otherwise prohibited by law. Under existing law, a municipality may regulate only a municipally owned utility which is not regulated by the state. This section applies as a home rule limitation, and is an existing limitation under AS 29.13.100(17). (AS 29.48.060)

Sec. 29.35.080. Requires municipal regulation of alcoholic beverages to conform to state requirements and is made a home rule limitation. (AS 29.48.035(a)(10))

Sec. 29.35.090. The governing body is required by ordinance to establish a formal procedure for acquisition and disposal of land. The provisions authorizing a municipality to acquire, hold and dispose of real property are deleted as unnecessary. The provisions dealing with the requirements which must be met in the formal procedure established for disposal of land have been eliminated to provide more flexibility. The provisions dealing with restricting land to agricultural use have been deleted. (AS 29.48.260)

Sec. 29.35.100. Under existing law, obligations requiring payment of funds from appropriations of later years must be approved by ordinance. This has been eliminated as misleading in that it could be construed to suggest that bonded indebtedness may be acquired, whether or not for a capital project, so long as the indebtedness is approved by ordinance. AS 29.48.190(d) is eliminated as unnecessary. (AS 29.48.190)

Sec. 29.35.110. This is rewritten for clarity. (AS 29.48.210)

Sec. 29.35.120. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.48.220)

Sec. 29.35.130. No substantive change. (AS 29.73.080)

Sec. 29.35.150. Statutory references have been added to reflect reorganization. Subsection (b) is applicable as a home rule limitation, and exists as a home rule limitation under AS 29.13.100(10). (AS 29.33.010, 29.41.010(d))

Sec. 29.35.160. No change, except for minor rewording to achieve consistent usage. This is a home rule limitation, and exists as a limitation under AS 29.13.100(34). (AS 29.33.050)

Sec. 29.35.170. The subsection dealing with collection by a borough of taxes levied by a city is made applicable as a limitation on home rule municipalities. (AS 29.33.030)

Sec. 29.35.180. This is a new statement requiring first and second class boroughs to provide for planning and land use regulation under provisions of Chapter 40 so that this article will contain a complete list of areawide powers. A home rule borough is required to provide for planning, platting, and land use regulation.

Sec. 29.35.200. (a) Allows a first class borough to exercise on a nonareawide basis any power not otherwise prohibited by law. Under existing law a first class borough may exercise on a nonareawide basis any general law municipal power, but before exercising the power, the borough must seek to have it transferred from cities or propose joint city/borough exercise. (AS 29.38.010)

(b) No change. (AS 29.48.030, 29.48.035(b))

(c) Allows a first class borough to exercise on an areawide basis any power not prohibited by law if it has been acquired. Under existing law, a first class borough may acquire additional areawide municipal powers, but only the powers listed in Title 29. The authority to acquire powers which is granted in this bill is broader, since a borough may acquire any power not specifically prohibited by statute whether or not it is identified as a municipal power in Title 29. (AS 29.33.250)

Sec. 29.35.210. (a) Allows a second class borough to exercise certain powers on a nonareawide basis. Under existing law before a nonareawide power may be exercised, the borough must seek to have it transferred from cities or propose joint borough/city exercise of the power, and the requirement is not contained in this bill. (AS 29.38.020)

(1) No change. (AS 29.48.030(a)(12))

(2) No substantive change. (AS 29.48.020(1))

(3) No change. (AS 29.48.020(2), 29.48.035(a)(5) and (b))

(4) Under existing law this power is subject to the section dealing with garbage and solid waste, sec. 29.35.050 of this bill. (AS 29.48.020(5))

(5) Under existing law providing air pollution control is permitted on an areawide basis only. (AS 29.48.035(a)(18) and (b))

(6) No change. (AS 29.48.020(6), 29.48.035(a)(17) and (b))

(7) Minor rewording. (AS 29.48.020(7))

- (8) This is new material.
- (9) No change. (AS 29.48.020(8))
- (10) No change. (AS 29.48.020(9))

Under existing law a second class borough may exercise the following additional nonareawide powers not specified in this bill:

- (1) powers approved at incorporation (AS 29.38.020);
- (2) regulate snow vehicles, subject to other law (AS 29.48.020(4));
- (3) licensing of day care facilities (AS 29.48.035(a)(20) and (b)).

(b)(1) No change. (AS 29.48.030(12))

- (2) No change. (AS 29.48.035(a)(5) and (b))
- (3) No change. (AS 29.48.035(a)(18) and (b))
- (4) No change. (AS 29.48.035(a)(17) and (b))
- (5) No change. (AS 29.48.035(a)(20) and (b))

(c) Allows a second class borough to exercise a nonareawide power not otherwise prohibited by law if the exercise of the power is approved by the voters living in the borough area outside the cities. Under existing law a second class borough may acquire additional nonareawide powers upon approval of the voters. However, the powers which may be acquired are limited to those itemized in Title 29, so under this bill broader authority to acquire powers is provided. (AS 29.38.030, 29.38.040, 29.38.050)

(d) Allows a second class borough to exercise an areawide power not otherwise prohibited by law if the exercise of the power is approved by the voters or transferred by the cities in the borough. Under existing law a borough may acquire only the powers authorized in Title 29. (AS 29.33.250)

Sec. 29.35.220. (a) No substantive change. (AS 29.41.010(c))

(b) No substantive change. (AS 29.41.010(a))

(c) No substantive change. (AS 29.41.010(b))

(d) A third class borough may acquire any power not prohibited by law for exercise in a service area. (AS 29.41.010(b))

Sec. 29.35.250. This expands the authority of the city to exercise powers, since under existing law a city may only exercise listed municipal powers. A city may not exercise a power once that power has been exercised on an areawide basis by the borough. Existing law is in conflict as to whether a city may exercise a power being exercised on an areawide basis by the borough. In one section, existing law provides that the city may not do so, while in another section it provides that a city may exercise the power if the borough by ordinance permits exercise of the power by the city or ceases to exercise the power. (AS 29.33.010(b), 29.43.040(b), 29.48.035(b))

Sec. 29.35.260. (a) A city outside a borough may exercise a power not otherwise prohibited by law. Under existing law, a city is granted only enumerated powers, so this is a broader authorization. (AS 29.43.010)

(b) Minor rewording. (AS 29.43.030)

(c) Requires a home rule city to provide for planning, platting, and land use regulation but it does not have to comply with Chapter 40. General law cities that provide for land use regulation must do so in accordance with Chapter 40. (AS 29.43.040)

(d) This is new making the section applicable as a home rule limitation. Under existing law material contained in (c) is not a limitation on home rule municipalities.

Sec. 29.35.300. Combines material dealing with the acquisition of areawide and nonareawide powers. (AS 29.33.250, 29.41.010)

Sec. 29.35.310. No change, except for minor rewording for consistent usage. (AS 29.33.260)

Sec. 29.35.320. Provides that a petition shall be filed with the borough clerk who certifies whether it contains sufficient signatures. After certification the assembly orders an election to be held within 60 days of the order, while under existing law, the election is held at least 30 days after the order, but not later than the next regular election. (AS 29.33.270, 29.33.280, 29.33.290(a), 29.38.030, 29.38.040, 29.38.050(a), 29.41.010(b))

Sec. 29.35.330. No change, except for minor rewording to achieve consistent usage. (AS 29.33.290(b) and (c), 29.38.050(b) and (c))

Sec. 29.35.340. Reorganized, but no substantive change. (AS 29.33.290(c))

Sec. 29.35.400. No substantive change. (AS 29.48.310)

Sec. 29.35.410. No substantive change. (AS 29.48.320)

Sec. 29.35.420. No substantive change. (AS 29.48.330)

Sec. 29.35.450. (a) Allows a borough to include a city in a service area if the city council agrees by ordinance or if approval is granted by a majority of voters residing in the city and by a majority of voters residing outside the city, but within the service area boundaries. Existing law is silent as to whether a city may be included within a service area. (AS 29.63.090(a))

(b) No change. (AS 29.63.090(d))

Sec. 29.35.460. No substantive change. (AS 29.63.090(c))

Sec. 29.35.470. No substantive change. (AS 29.63.090(b) and (e))

Sec. 29.35.480. No substantive change. (AS 29.63.090(a) and (e))

Sec. 29.35.490. New material has been added to allow owners of real property within a service area to consent in writing to the exercise of a power if no voters reside within the service area. (AS 29.41.010(b), 29.63.090(a) and (e))

(b) No change. (AS 29.41.010(b), 29.68.010(f))

Sec. 29.35.700. This is new and provides a definition of "power".

#### CHAPTER 40. PLANNING, PLATTING, AND LAND USE REGULATION.

The word "zoning" has been replaced by the phrase "land use regulation" throughout the title in order to confer broader planning powers on municipalities. The term "land use regulation" allows a municipality to use a variety of planning tools which might not necessarily be regarded as falling within traditional "zoning" practices.

Sec. 29.40.010. The assembly may delegate any of its planning responsibilities to a city if the city consents by ordinance. The assembly may, without obtaining the consent of the city, revoke the power delegated. Under existing law, there is no requirement that a city consent to the delegation of planning power. (AS 29.33.070)

Sec. 29.40.020. Membership on the planning commission shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in those cities. Under existing law membership is apportioned so that the number of members from first class cities

reflects the proportion of borough population residing in first class cities, but the population of home rule cities is not taken into account. The planning commission shall prepare measures necessary to implement the comprehensive plan, while under existing law the planning commission is required to prepare a zoning ordinance to implement the plan. Under this bill, the planning commission has authority to utilize methods other than zoning to implement a plan. (AS 29.33.080(a) and (b))

Sec. 29.40.030. This is reorganized and reworded for clarity. After receiving the recommendations of the planning commission, the assembly is required periodically to undertake an overall review of the plan and update it as necessary. Under existing law, the planning commission is required to undertake an overall review of the plan at least once every two years and present recommendations to the assembly. (AS 29.33.085)

Sec. 29.40.040. (a) This is substantially new material. It requires the assembly to implement a comprehensive plan through zoning regulations, land use permit requirements, or other methods. The material dealing with "contract zoning" has been eliminated. The list of items for which zoning may be used in AS 29.33.090(b) and (c) has been eliminated. The material contained in AS 29.33.090(e), allowing a business licensed by the Alcoholic Beverage Control Board to continue to operate before the adoption of the zoning ordinance, is eliminated. (AS 29.33.090(a))

(b) No substantive change. (AS 29.33.110(c))

Sec. 29.40.050. (a) Requires the assembly to provide for an appeal from the application of a land use regulation. Under existing law, the board of adjustment hears appeals. (AS 29.33.110(b))

(b) Allows the assembly to provide for the appointment of hearing officers or of a board of adjustment to hear appeals. Under existing law, the assembly is the board of adjustment, but may delegate its functions. (AS 29.33.110(a))

Sec. 29.40.060. (a) Allows for an appeal from a decision dealing with land use regulation. Under existing law, appeals are limited to decisions from the board of adjustment. (AS 29.33.130(a) and (b))

(b) An appeal from a land use regulation is an administrative appeal. The provision in AS 29.33.130(c), that an appeal stays enforcement proceeding unless the court issues an enforcement order, has been eliminated. (AS 29.33.130(d) and (e))

Sec. 29.40.070. Material in paragraph (4) dealing with dedication of rights-of-way and easements is added. (AS 29.33.150(a))

Sec. 29.40.080. This is new material requiring the assembly to establish a platting authority. Under existing law, the planning commission acts as platting authority. The material contained in AS 29.33.150(b) dealing with subdivisions of state land, is eliminated. (AS 29.33.150(a))

Sec. 29.40.090. (a) This is new and requires the assembly to establish an abbreviated plat procedure for plats meeting certain requirements.

(b) Authorizes waiver of plat requirements if a subdivision meets requirements for an abbreviated plat and each lot is five acres or larger. (AS 29.33.170)

Sec. 29.40.100. Rewritten for clarity. (AS 29.33.180)

Sec. 29.40.110. This is rewritten for clarity. Material dealing with filing a preliminary subdivision plat contained in AS 29.33.160(c) has been eliminated. (AS 29.33.160(a) and (b))

Sec. 29.40.120. Allows a plat to be altered upon petition of the state, the borough, a public utility, or the owners of a majority of the land affected. Existing law allows a plat to be altered only upon petition of the owners of a majority of the land or by the platting board. A platted street may be vacated upon petition of the state, the borough, a public utility, or owners of the majority of the land fronting the portion of the street sought to be vacated. Under existing law, only the municipality or owners of the majority of the land fronting the part of the street sought to be vacated may petition to vacate a street. (AS 29.33.200)

Sec. 29.40.130. Requires the platting authority to publish notice of a hearing for a replat petition. "Published" is defined to require publication once in a newspaper of general circulation or posting in three public places. Under existing law, notice is required to be published once a week for two consecutive weeks. (AS 29.33.210)

Sec. 29.40.140. Rewritten for clarity. (AS 29.33.220)

Sec. 29.40.150. Requires a plat to be acknowledged and filed by the recorder with a certificate that taxes have been paid. (AS 29.33.230)

Sec. 29.40.160. Minor rewording. The material in (a) - (c) has been applied as a home rule limitation. None of this section is a limitation under existing law. (AS 29.33.240)

Sec. 29.40.170. Rewritten for clarity. (AS 29.33.245)

Sec. 29.40.180. A person who violates a land use regulation, condition imposed by a platting authority, or a section of law under the chapter dealing with land use regulation is guilty of a class B misdemeanor. (AS 29.33.190)

Sec. 29.40.190. A civil action may be initiated against a person who violates a section of law of the chapter dealing with land use regulation, a subdivision regulation or a term imposed by the platting authority. An action to enjoin may be brought and the superior court shall grant an injunction upon a finding of violation or threatened violation. In addition, a civil penalty not to exceed \$1,000 may be imposed and each day that an unlawful condition continues constitutes a separate violation. Under existing law, a person who transfers land in a subdivision before a plat has been recorded, and a person who records a plat which has not been approved by the platting board may be punished by a fine of not more than \$500. (AS 29.33.190)

Sec. 29.40.200. Made applicable to home rule municipalities. Under existing law only the material contained in (a) of this section is a home rule limitation under AS 29.13.100(39). (AS 29.33.150(b) - (g))

#### CHAPTER 45. MUNICIPAL TAXATION.

Sec. 29.45.010. Authorizes a municipality to levy a property tax on real or on personal property. The distinction between areawide and nonareawide property taxes as applied to a unified municipality is eliminated. A property tax may be levied in a service area for functions in the service area. Cross-references to the provisions dealing with the taxing power of cities are added. (AS 29.53.010)

Sec. 29.45.020. No substantive change. (AS 29.73.070(a) and (c))

Sec. 29.45.030. Household furniture is exempt from taxation without regard to the value of the furniture. Property of an auxiliary of a nonbusiness organization is exempt. Under existing law, lots supporting and adjacent to a structure used for religious purposes are exempt from taxation. That exemption is eliminated. Property from which income is derived is exempt if used by nonprofit educational groups for classroom space, or by nonprofit religious, charitable or hospital groups. Under existing law, there is some ambiguity as to whether property, other than property used for classroom space, is exempt. An exemption for real property owned as a permanent place of abode by a resident 65 years of age or over may not be granted except upon written application. Under existing law, there is some ambiguity as to whether any exemption may be granted without a written application. One motor vehicle per household owned by a resident 65 years of age or older is

exempt. A provision for implementation of a federal tax exemption is included. (AS 29.53.020)

Sec. 29.45.040. No change, except that "Department of Community and Regional Affairs" is replaced by "department". (AS 29.73.060)

Sec. 29.45.050. (a) No change, except "regular or special" is deleted since "election" is defined. (AS 29.53.025(a))

(b) Eliminates the requirement that a tax based upon tonnage not exceed five dollars a year for a boat of less than five net tons, and not exceed fifteen dollars a year for a boat of more than five tons. The optional exemption of household furniture over five hundred dollars in value has been eliminated since all household furniture is exempted under this bill. (AS 29.53.025(b))

(c) The reference to "weighted" voting is eliminated. (AS 29.53.025(c))

(d) "Act" has been changed to "chapter". (AS 29.53.025(d))

(e) No substantive change. (AS 29.53.025(e))

(f) Minor rewording. (AS 29.53.025(f))

(g) No change. (AS 29.53.025(g))

Sec. 29.45.060. Provides that a farm use greenhouse be assessed on the basis of value for farm use. "Farm use" includes the use of property for raising ornamental plants. (AS 29.53.035)

Sec. 29.45.070. No substantive change. (AS 29.53.040)

Sec. 29.45.080. No substantive change. (AS 29.53.045)

Sec. 29.45.090. Requires all property upon which a tax is levied to be taxed at the same rate during the year. Reorganized and slightly reworded for clarity. (AS 29.53.050)

Sec. 29.45.100. Statutory references are altered to reflect new numbering. (AS 29.53.055)

Sec. 29.45.110. Statutory reference is altered to reflect new numbering. (AS 29.53.060)

Sec. 29.45.120. "Assembly" is replaced by "governing body". (AS 29.53.070)

Sec. 29.45.130. Allows the assessor to seek a court order to compel production of records, as well as to compel entry. (AS 29.53.080)

Sec. 29.45.140. A person who fails to file a tax statement or makes a false tax statement is guilty of a class B misdemeanor. Under existing law, he is guilty of a misdemeanor punishable by a fine of \$500 or by imprisonment for up to 30 days or both. (AS 29.53.090)

Sec. 29.45.150. "Assembly" is replaced by "governing body" and "borough" is replaced by "municipality". (AS 29.53.095)

Sec. 29.45.160. Minor rewording. (AS 29.53.100)

Sec. 29.45.170. Minor rewording. (AS 29.53.110)

Sec. 29.45.180. Minor rewording for clarity. (AS 29.53.120)

Sec. 29.45.190. Minor rewording for clarity. (AS 29.53.130)

Sec. 29.45.200. (a) Requires an appointed board to be composed of no less than three persons, and eliminates the requirement that the board consist of the number of members of the assembly above the number required for a quorum. Requires the governing body to establish by ordinance the qualifications for board membership. (AS 29.53.135)

(b) Allows the board to alter an assessment only if an appeal is filed as to that particular lot. (AS 29.53.135)

(c) This subsection is new, allowing an appeal directly to the superior court on the issue of whether property is taxable.

Sec. 29.45.210. Provides that if, upon appeal, a valuation is found to be too low, the board may raise the assessment. An appeal to the superior court shall be tried as an administrative appeal, while under existing law an appellant may demand a jury trial. (AS 29.53.140)

Sec. 29.45.220. No change. (AS 29.53.150)

Sec. 29.45.230. Reassessment is permitted when property is affected by a disaster declared by the President, or by the governor. Under existing law, this section applies only when property is affected by a disaster declared by the President. (AS 29.53.150)

Sec. 29.45.240. Minor rewording. (AS 29.53.170)

Sec. 29.45.250. Allows a penalty not to exceed 20 percent of the tax due to be added to delinquent taxes and interest at the rate of 15 percent a year to accrue upon unpaid taxes. Under existing law, a penalty not to exceed 10 percent may be added, and interest at the rate of eight percent shall accrue. A penalty not to exceed 20 percent of the tax due may be imposed upon the late return of personal property assessment forms. Under existing law, only 10 percent of the tax due may be imposed. If a taxpayer may pay a tax in two installments, penalty and interest on the unpaid installment accrues from the date the installment becomes due. Under existing law, if the taxpayer does not pay the first half when due, the entire tax becomes delinquent. A penalty of eight percent is added on delinquent taxes until the due date fixed for payment of the second half, and after the due date of the payment of the second half, the penalty may be increased to 10 percent. (AS 29.53.180)

Sec. 29.45.290. No substantive change. (AS 29.53.200)

Sec. 29.45.300. Property taxes, together with penalty and interest are a lien upon the property assessed, while under this section of existing law, only real property taxes are mentioned as a lien upon the property assessed. However, under AS 29.53.220 it is clear that unpaid personal property taxes are also a lien. (AS 29.53.210)

Sec. 29.45.310. If property is sold for more money than needed to satisfy the tax, the municipality is required to remit the excess to the former record owner. A claim for the excess filed after six months is barred. Under existing law, there is no provision for remitting the excess to the former record owner. (AS 29.53.220)

Sec. 29.45.320. Reworded slightly, and the statutory reference is altered to reflect new numbering. (AS 29.53.230)

Sec. 29.45.330. Minor rewording. (AS 29.53.240)

Sec. 29.45.340. "Borough" is altered to "municipality". (AS 29.53.250)

Sec. 29.45.350. "Such" is altered to "the". (AS 29.53.260)

Sec. 29.45.360. Minor rewording, and the statutory reference is altered to reflect new numbering. (AS 29.53.270)

Sec. 29.45.370. "Tract" is altered to "lot". (AS 29.53.280)

Sec. 29.45.380. Minor rewording. (AS 29.53.290)

Sec. 29.45.390. Minor rewording and reorganization. (AS 29.53.300)

Sec. 29.45.400. The material currently contained in AS 29.-53.310(b), allowing a person holding a lien against part of real property included in a judgment and decree of foreclosure to redeem only that part, has been eliminated. (AS 29.53.310)

Sec. 29.45.410. Receipt of redemption money by the municipality releases the judgment obtained through foreclosure. Under existing law, receipt of redemption by the clerk releases all claims of the municipality to the property. (AS 29.53.320)

Sec. 29.45.420. No change. (AS 29.53.330)

Sec. 29.45.430. No substantive change. (AS 29.53.340)

Sec. 29.45.440. Allows the clerk's designee to publish a redemption period expiration notice. Requires the clerk to send a copy of the notice to holders of liens if the assessed value of property being foreclosed is over \$100,000. Under existing law, notice must be sent if the assessed value is over \$10,000. (AS 29.53.350)

Sec. 29.45.450. Minor rewording. (AS 29.53.360)

Sec. 29.45.460. Allows the designee of the clerk to send a copy of the published notice, while under existing law, the clerk is required to send the copy. (AS 29.53.370)

Sec. 29.45.470. Minor rewording. (AS 29.53.375)

Sec. 29.45.480. No substantive change. (AS 29.53.380)

Sec. 29.45.490. "City or borough" is changed to "municipality". (AS 29.53.385)

Sec. 29.45.500. New material is added to this section so that if, in the absence of suit, it becomes obvious to the governing body that judgment for recovery of taxes would be obtained, the municipality shall refund the amount of taxes plus interest. The governing body is permitted to correct manifest clerical errors at any time. (AS 29.53.390)

Sec. 29.45.550. Minor rewording. (AS 29.43.020)

Sec. 29.45.560. Statutory references are altered to reflect new numbering. All sections under existing law which apply to taxes levied by a city apply under this bill as well. Sec. 29.45.250, dealing with rates of penalty and interest; sec. 29.45.460, dealing with disposition and sale of foreclosed property; sec. 29.45.470, dealing with repurchase by record owner; sec. 29.45.490, dealing with payment of taxes upon public utilization; sec. 29.45.500, dealing with refund of taxes have been added as provisions which a city is subject to. (AS 29.53.400)

Sec. 29.45.570. This is new, applying the provisions dealing with property taxes to home rule municipalities as a limitation.

Sec. 29.45.580. Minor rewording. (AS 29.53.405)

Sec. 29.45.590. No substantive change. (AS 29.53.410)

Sec. 29.45.600. This is new material allowing a petition for second class city incorporation to request that a property tax proposal be placed on the same ballot. The petition may request that incorporation be dependent on passage of the property tax. Under existing law, a petition may combine a request for sales and use tax with a request for incorporation, but no provision exists for combining a request for property tax with a request for incorporation.

Sec. 29.45.650. Interest at the rate of 15 percent, rather than eight percent may be charged on delinquent sales and use taxes, and this is made applicable as a home rule limitation. Material in (e) has been added to allow a lien to be placed on the property to secure the payment of a sales and use tax. (AS 29.53.415)

Sec. 29.45.660. Minor rewording. (AS 29.73.070(b) and (c))

Sec. 29.45.670. The requirement that a sales tax proposition be presented only once a year has been eliminated. Material now in AS 29.53.420(b) is deleted. (AS 29.53.420(a))

Sec. 29.45.700. Allows the borough assembly by ordinance to authorize the city to levy and collect sales and use taxes on sources other than the sources being taxed by the borough. Under existing law, a city within a borough may levy sales and use taxes only upon sources taxed by the borough. The provision that a city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs has been added. (AS 29.53.440, 29.53.450)

Sec. 29.45.710. No substantive change. (AS 29.53.460)

#### CHAPTER 46. SPECIAL ASSESSMENTS.

Sec. 29.46.010. Minor rewording and the statutory reference is altered to reflect new numbering. (AS 29.63.010)

Sec. 29.46.020. A list of procedures which the governing body may prescribe includes procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments, and financing improvements. Under existing law, the governing body is authorized to prescribe the complete special assessment procedure for local improvements. Statutory references are altered to reflect new numbering. (AS 29.63.015)

Sec. 29.46.030. The heading is altered from "DECISION AND NOTICE" to "CREATION OF DISTRICT". Minor rewording. (AS 29.63.020)

Sec. 29.46.040. Minor rewording. (AS 29.63.025)

Sec. 29.46.050. Objections may be filed any time within 60 days after publication of notice. Under existing law, objections to an improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the governing body. Minor rewording. (AS 29.63.030)

Sec. 29.46.060. Minor rewording for clarity. (AS 29.63.040)

Sec. 29.46.070. Requires a new hearing if the assessment is increased as a result of correcting errors and inequalities in the assessment roll. Objections to the increased assessment are limited to record owners of property on which the assessment was increased. Under existing law, there is no provision for an additional hearing if an assessment is increased as a result of correcting errors. (AS 29.63.050)

Sec. 29.46.080. Minor rewording for clarity, and statutory references are altered to reflect new numbering. (AS 29.63.060)

Sec. 29.46.090. Slightly reorganized, and statutory references are altered to reflect new numbering. The section is applicable as a home rule limitation, and is a limitation now under AS 29.13.100(36). (AS 29.63.065)

Sec. 29.46.100. Minor reorganization and rewording. (AS 29.63.070)

Sec. 29.46.110. (a) This is new material itemizing the costs which may be included in a special assessment.

(b) The total amount of the assessment roll may not exceed actual costs, but actual costs may include reasonable estimates of the costs incurred in connection with issuance of bonds. (AS 29.63.040(a))

Sec. 29.46.120. Minor rewording and reorganization. (AS 29.63.080)

Sec. 29.46.130. This is new material allowing the governing body to issue notes to secure payment of the costs of a local improvement project. The notes are payable out of special assessments for the improvement and the notes are claims against the assessments.

Sec. 29.46.140. Minor rewording. The last line of AS 29.63.085(c), providing that interest on the guarantee funds are a cost of the improvement district, is eliminated. (AS 29.63.085)

#### CHAPTER 47. MUNICIPAL DEBT.

Sec. 29.47.010. Minor rewording. (AS 29.58.010)

Sec. 29.47.020. Minor rewording. (AS 29.58.020)

Sec. 29.47.030. Minor rewording. (AS 29.58.040)

Sec. 29.47.040. Minor rewording. (AS 29.58.050)

Sec. 29.47.080. Minor rewording. (AS 29.58.070)

Sec. 29.47.090. "Assembly or council" is replaced with "governing body". (AS 29.58.080)

Sec. 29.47.100. "Assembly or council" is replaced by "governing body".

Sec. 29.47.110. No substantive change. (AS 29.58.100)

Sec. 29.47.120. Minor rewording. (AS 29.58.110)

Sec. 29.47.130. Minor rewording. (AS 29.58.120)

Sec. 29.47.140. No change. (AS 29.58.130)

Sec. 29.47.180. Minor rewording. (AS 29.58.150)

Sec. 29.47.190. Minor rewording. The reference to a charter is eliminated since this section does not apply as a home rule limitation. (AS 29.58.160)

Sec. 29.47.200. Minor rewording. The last sentence in (b) is added since this subsection applies to home rule municipalities as a limitation. It is currently a limitation under AS 29.13.100(24). (AS 29.58.180)

Sec. 29.47.240. Rewritten for clarity. (AS 29.58.200)

Sec. 29.47.250. Minor rewording. (AS 29.58.205)

Sec. 29.47.260. This is a new section excluding revenue bonds from the application of the prohibition against a political subdivision of the state making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation.

Sec. 29.47.300. Minor rewording. (AS 29.58.240)

Sec. 29.47.310. No substantive change. (AS 29.58.250)

Sec. 29.47.320. "Assembly or council" is replaced by "governing body". (AS 29.58.260)

Sec. 29.47.330. The statutory reference is altered to reflect new numbering and the fact that sections dealing with payment on bonds are combined into one section. (AS 29.58.270)

Sec. 29.47.340. The requirement that refunding bonds be exchanged at par for bonds being refunded is eliminated, so that refunding bonds may be exchanged at the discretion of the governing body. (AS 29.58.280)

Sec. 29.47.390. This contains new material allowing the issuance of revenue bonds to finance any project and to be secured and payable solely from the revenue and property of the project. The city or borough is not obligated to make payments on the bonds from any other sources. (AS 29.58.200(c))

Sec. 29.47.400. Bonds and notes may be sold in the manner and at the price determined by the municipality. Under existing law, no bonds may be sold at less than par value. (AS 29.58.060, 29.58.140, 29.58.300)

Sec. 29.47.410. Minor rewording. (AS 29.58.170, 29.58.210)

Sec. 29.47.420. Allows the interest rate payable on a bond or note to exceed the usury rate. Under existing law, no bond or note may bear an interest which exceeds the contract usury rate. (AS 29.58.310)

Sec. 29.47.430. No substantive change. (AS 29.58.320)

Sec. 29.47.440. Rewritten for clarity. The statutory reference is altered to reflect new numbering. (AS 29.58.340)

Sec. 29.47.450. This is new material providing that the indebtedness of a service area will remain a debt even though a court subsequently determines that the service area was not validly formed under law.

#### CHAPTER 55. MUNICIPAL PROGRAMS.

Sec. 29.55.010. "General or home rule" is eliminated since "municipality" includes by definition both a general law and a home rule municipality. (AS 29.48.108)

Sec. 29.55.020. The statutory reference to the preceding section is eliminated as unnecessary. (AS 29.48.110)

#### CHAPTER 60. STATE PROGRAMS.

Sec. 29.60.010. "Local government services" is replaced by "municipal services". (AS 29.88.010)

Sec. 29.60.020. Material in AS 29.88.015(b) is deleted. Since municipal tax resource equalization is organized as an article, rather than a chapter, the statutory reference is added. (AS 29.88.015)

Sec. 29.60.030. Statutory references are added since this material is no longer located in a separate chapter. (AS 29.88.020)

Sec. 29.60.040. Statutory references are added since this material no longer appears as a separate chapter. (AS 29.88.025)

Sec. 29.60.050. Subsection (a), dealing with limitation on use of payments, is a home rule limitation. Under existing law all of the tax equalization program is a home rule limitation under AS 29.13.100(46). "Assembly or council" is replaced by "governing body". (AS 29.88.030)

Sec. 29.60.060. Statutory references are added, since this material is no longer contained in a separate chapter. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.035)

Sec. 29.60.070. Statutory references are added, since this material is no longer contained in a separate chapter. Statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.040)

Sec. 29.60.080. Definitions of "department" and "municipality" are eliminated since these are now defined with respect to the entire title. (AS 29.88.045)

Sec. 29.60.100. Statutory references are altered to reflect new numbering. Provision for revenue sharing payable to a "Native village government" is altered to "an unincorporated community". (AS 29.89.010)

Sec. 29.60.110. "Local government" is replaced by "municipality". (AS 29.89.020)

Sec. 29.60.120. Subsections (a) and (c) dealing with distribution and use of money, are home rule limitations. Under existing laws all of the program of aid for miscellaneous services is a limitation under AS 29.13.100(47). (AS 29.89.030)

Sec. 29.60.130. "Borough or city" is replaced by "municipality".  
(AS 29.89.040)

Sec. 29.60.140. Provides for aid to unincorporated communities rather than to Native village governments. The Department of Community and Regional Affairs shall pay the money to the entity in an unincorporated community most qualified to receive it. No money may be paid to a Native village council unless it waives immunity from suit. If there is no entity in an unincorporated community willing to receive the money, the community receives no entitlement. (AS 29.89.050)

Sec. 29.60.150. The last portion of the section listing possible sources of population data is eliminated. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.060)

Sec. 29.60.160. Statutory references are altered to reflect new numbering. (AS 29.89.070)

Sec. 29.60.170. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.89.080)

Sec. 29.60.180. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.090)

Sec. 29.60.230. Made applicable as a home rule limitation.  
(AS 29.90.010, 29.90.020(3))

Sec. 29.60.240. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.90.020)

Sec. 29.60.280. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.010)

Sec. 29.60.290. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.020)

Sec. 29.60.300. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.030)

Sec. 29.60.350. Administration of the municipal assistance fund is transferred from the Department of Revenue to the Department of Community and Regional Affairs. (AS 43.20.016(a))

Sec. 29.60.360. No substantive change. (AS 43.20.016(b))

Sec. 29.60.370. No substantive change. (AS 43.20.016(c) and (d))

Sec. 29.60.800. No substantive change. (AS 29.89.100(2) and (3), 29.90.030(2) and (4))

#### CHAPTER 65. GENERAL GRANT LAND.

Sec. 29.65.010. No change. (AS 29.18.201)

Sec. 29.65.020. No substantive change. (AS 29.18.202)

Sec. 29.65.030. Minor rewording. (AS 29.18.203)

Sec. 29.65.040. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.18.204)

Sec. 29.65.050. The statutory references to repealed sections are deleted as unnecessary in (a). The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.205)

Sec. 29.65.060. Statutory references are altered to reflect new numbering. (AS 29.18.206)

Sec. 29.65.070. No substantive change. (AS 29.18.207)

Sec. 29.65.080. Reworded for clarity. The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.208)

Sec. 29.65.090. "Any" is changed to "a". (AS 29.18.209)

Sec. 29.65.100. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.210)

Sec. 29.65.110. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.211)

Sec. 29.65.120. Since this material is now organized in a separate chapter, the statutory reference to the sections dealing with general grant land is eliminated. (AS 29.18.212)

Sec. 29.65.130. Since this material is now organized in a separate chapter, the statutory reference is eliminated. The definition of "municipality" is eliminated since that term is now defined for the entire title. (AS 29.18.213)

Sec. 29.65.140. This is a new section indicating that the chapter dealing with general grant land applies to home rule municipalities

as well as to general law municipalities. This material is not a home rule limitation under existing law.

#### CHAPTER 71. GENERAL PROVISIONS.

Sec. 29.71.010. No substantive change. (AS 29.73.030)

Sec. 29.71.020. This is a new section providing that dedication of rights of way or other areas for public use does not require the municipality to maintain, improve, or provide for municipal services in the area dedicated and does not impose any liability on the municipality for the condition of the area dedicated. The section is applicable to home rule municipalities.

Sec. 29.71.030. No substantive change. (AS 29.73.040)

Sec. 29.71.800. The following definitions are added or changed from existing law:

- (1) "areawide" is defined to include cities in the borough.
- (4) this is added;
- (7) this is added;
- (8) this is added;
- (9) "election" includes both regular and special municipal elections, but does not include a state election, while under existing law, only "regular election" is defined;
- (10) this is added to refer to either a borough or city legislative entity;
- (13) "municipality" includes a home rule or general law borough, city, or unified municipality, while the existing definition includes only general law municipal corporations; (AS 29.78.010(8))
- (14) "nonareawide" includes the area of a borough outside cities in the borough, while under existing law "nonareawide power" is defined; (AS 29.78.010(8))
- (15) "owner" or "record owner" means the owner of record shown in the records of the district recorder; (AS 29.78.010(9))
- (20) minor rewording; (AS 29.78.010(14))
- (21) this has been added;

(23) subparagraph (A) has been reworded and (B) is new;  
(AS 29.78.010(16))

(24) this has been added;

(25) minor rewording; (AS 29.78.010(17))

The definition of "municipal election" has been eliminated.  
(AS 29.78.010(7))

\* Sec. 18. A definition of "municipality" is added for all Alaska Statutes.

\* Sec. 20. The statutory references are altered to reflect new numbering. References to merger and consolidation are eliminated as unnecessary.

\* Sec. 21. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 22. The statutory references are altered to reflect new numbering.

\* Sec. 23. Reworded to delete incorrect statutory references.

\* Sec. 24. References to third class boroughs have been eliminated. Subsection (b) has been added containing material currently made applicable by the reference to third class boroughs.

\* Sec. 25. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 26. The statutory references are altered to reflect new numbering.

\* Sec. 27. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 28. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 29. The statutory references are altered to reflect new numbering.

\* Sec. 30. The statutory references are altered to reflect new numbering.

\* Sec. 31. The statutory references are altered to reflect new numbering.

\* Sec. 32. The statutory references are altered to reflect new numbering.

\* Sec. 33. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 34. The statutory references are altered to reflect new numbering.

\* Sec. 35. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 36. The statutory references are altered to reflect new numbering.

\* Sec. 38. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 39. Minor rewording for consistency.

\* Sec. 40. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 41. The statutory references are altered to reflect new numbering.

\* Sec. 42. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 43. Minor rewording. Incorrect statutory references are deleted.

\* Sec. 44. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 45. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 46. The statutory reference is deleted as unnecessary.

\* Sec. 47. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 48. The statutory references are deleted as unnecessary.

\* Sec. 49. The statutory references are deleted as unnecessary.

\* Sec. 50. The statutory reference is altered to reflect new numbering.

\* Sec. 51. The statutory references are altered to reflect new numbering. Some references are eliminated as unnecessary. "Former" is added before citations to sections repealed in this bill.

\* Sec. 52. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.

\* Sec. 53. The word "former" is added before the statutory citation because those sections are repealed in this bill.

\* Sec. 54. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 55. "Former" is added before citations to sections previously repealed.

\* Sec. 56. Minor rewording. The statutory reference is altered to reflect new numbering.

\* Sec. 57. Minor rewording. The statutory reference is deleted as unnecessary.

\* Sec. 58. Minor rewording. The statutory references are altered to reflect new numbering.

\* Sec. 59. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.

\* Sec. 60. The statutory reference is deleted as unnecessary.

\* Sec. 61. The statutory references are altered to reflect new numbering.

\* Sec. 62. The statutory references are altered to reflect new numbering.

\* Sec. 63. The statutory references are altered to reflect new numbering.

\* Sec. 64. The statutory references are altered to reflect new numbering.

\* Sec. 65. The statutory references are altered to reflect new numbering.

\* Sec. 66. The statutory references are altered to reflect new numbering.

\* Sec. 67. The statutory references are altered to reflect new numbering.

\* Sec. 68. Minor rewording. The statutory references are deleted as unnecessary.

\* Sec. 69. The statutory references are deleted as unnecessary.

\* Sec. 70. Adds new sections dealing with borough feasibility studies. Authorizes the commissioner of community and regional affairs to contract for a study requested by a person residing in the area to be studied. Sets out requirements for the contract and what a study must include.

\* Sec. 71. The statutory reference is altered to reflect new numbering.

\* Sec. 72. The statutory reference is altered to reflect new numbering.

\* Sec. 73. The statutory reference is altered to reflect new numbering.

\* Sec. 74. The new statutory reference is inserted and "former" added before the citation to a section repealed by this bill.

\* Sec. 75. The new statutory references are inserted and "former" added before citations to sections repealed by this bill.

\* Sec. 76. The statutory references are altered to reflect new numbering.

\* Sec. 77. The statutory reference to a repealed section is deleted and language inserted to take the place of the deleted reference.

\* Sec. 78. The statutory references are altered to reflect new numbering.

\* Sec. 79. The statutory references are deleted as unnecessary.

\* Sec. 80. The statutory references are altered to reflect new numbering.

\* Sec. 81. The statutory references are deleted as unnecessary.

\* Sec. 82. The statutory references are altered to reflect new numbering.

\* Sec. 83. All of Title 29 is repealed except for AS 29.03.010 and AS 29.03.020. Additional provisions are repealed to reconcile this bill with other titles.

\* Sec. 84. A right or liability of a municipality in existence on the effective date of this Act is not affected by this Act. Ordinances and regulations in effect on the effective date of this Act remain in effect unless they conflict with a provision of this Act. If an ordinance or regulation conflicts, it remains in effect for 180 days. The terms of elected or appointed municipal officials are not affected by the Act and their terms expire as they would have before the effective date of this Act.

\* Sec. 85. The chapter on taxation is retroactive to January 1, 1983, the beginning of the tax year.

\* Sec. 86. An immediate effective date is provided for the retroactive clause and the chapter on taxation.

\* Sec. 87. The rest of the Act takes effect July 1, 1983.

In addition to the material already noted as having been deleted from this bill, the following sections have been eliminated entirely:

- AS 29.18.202 (determination of entitlement for cities);
- AS 29.18.220 - 29.18.460 (development cities);
- AS 29.18.510 - 29.18.610 (Capital City Incorporation Act);
- AS 29.23.395 - 29.23.401 (involvement of young people in local government);
- AS 29.23.470 (appointment of temporary or new manager);
- AS 29.28.220 (election procedure);
- AS 29.33.120 (adjustment procedure);
- AS 29.43.100 - 29.43.110 (curfews)
- AS 29.45.480 (proceeds of tax sale);
- AS 29.48.070 (hearing for regulation of utilities rates);
- AS 29.48.080 (right to participate and compel testimony);
- AS 29.48.090 (further proceedings);
- AS 29.48.100 (application);
- AS 29.48.250 (centralized purchasing);
- AS 29.53.030 (mining claims);
- AS 29.58.220 (payment);
- AS 29.58.315 (bond attorneys, bond and financial consultants);
- AS 29.58.345 (bonded indebtedness for school construction);
- AS 29.58.350 (bond guarantee fund).

TBC:ljb

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

Introduced: 1/18/83  
Referred: Community and Regional  
Affairs and Finance

1 IN THE SENATE

BY GILMAN, STURGULEWSKI  
AND P.FISCHER

2

SENATE BILL NO. 1

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal government; and provid-  
7 ing for an effective date."

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

9 \* Section 1. AS 29.03 is amended by adding a new section to read:

10 Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075,  
11 the Department of Natural Resources is the platting authority in the  
12 unorganized borough in the area outside all cities.

13 \* Sec. 2. AS 29 is amended by adding a new chapter to read:

14 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

15 Sec. 29.04.010. HOME RULE. A home rule municipality is a munici-  
16 pal corporation and political subdivision. It is a city or a borough  
17 that has adopted a home rule charter, or it is a unified municipality.  
18 A home rule municipality has all legislative powers not prohibited by  
19 law or charter.

20 Sec. 29.04.020. GENERAL LAW. A general law municipality is a  
21 municipal corporation and political subdivision and is an unchartered  
22 borough or city. It has legislative powers conferred by law.

23 Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipali-  
24 ties are of five classes:

- 25 (1) first class boroughs;  
26 (2) second class boroughs;  
27 (3) third class boroughs;  
28 (4) first class cities;  
29 (5) second class cities.

1           Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A  
2 second class city may be reclassified as a first class city by holding  
3 an election on the question, if the department determines from the  
4 best figures available that the population of the city has reached 600  
5 permanent residents.     *up from 400*

6           (b) An election on the question of reclassification may be ini-  
7 tiated in two ways:

8           (1) a number of voters equal to 15 percent of the number of  
9 votes cast in the city at the preceding regular election may file a  
10 petition with the council; or

11           (2) the council may propose reclassification.

12           (c) The council shall hold at least one public hearing in the  
13 city on the question of reclassification. The council shall then  
14 evaluate the ability of the city to assume first class status and make  
15 its findings public.

16           (d) The council shall, within 30 days after its findings have  
17 been made public, order an election on the question of reclassifica-  
18 tion. The election shall be held at least 30 days after the order and  
19 not later than the next regular election occurring after the 30-day  
20 period. If more than one question is to be voted on at the election,  
21 each shall appear separately on the ballot.

22           (e) The council shall certify the election results to the de-  
23 partment. If the majority of votes cast is favorable, the city shall  
24 be considered reclassified to first class status 30 days after certi-  
25 fication of the election results.

26           Sec. 29.04.050. RECLASSIFICATION OF SECOND CLASS BOROUGHS. A  
27 second class borough may reclassify as a first class borough in the  
28 manner provided by AS 29.35.320 - 29.35.330 for the addition of an  
29 areawide power by a first or second class borough, except the petition

1 or proposal requests reclassification instead of requesting addition  
2 of a power.

3 Sec. 29.04.060. RECLASSIFICATION OF THIRD CLASS BOROUGHS. (a)

4 A third class borough may reclassify as a first or second class bor-  
5 ough in the manner provided by AS 29.35.210 - 29.35.330 for the addi-  
6 tion of an areawide power by a first or second class borough, except  
7 the petition or proposal requests reclassification instead of request-  
8 ing addition of a power. At the time of voting on reclassification of  
9 a third class borough to first or second class status, voters shall  
10 vote also on whether the borough shall on reclassification retain a  
11 combined assembly and school board or elect a separate assembly and  
12 board as otherwise provided for first and second class boroughs.

13 (b) If a combined assembly and school board are approved at the  
14 reclassification election, the assembly serving at the time of the  
15 election continues to serve as the assembly and board on voter ap-  
16 proval of reclassification and until terms of assembly members expire  
17 as provided before reclassification. If a separate assembly and  
18 school board are approved at the reclassification election, a school  
19 board shall be elected in conformity with AS 14.12.030 - 14.12.100 at  
20 the next regular election, if it occurs within 90 days of the date of  
21 the reclassification election, or otherwise at a special election  
22 within 90 days of the date of the reclassification election. Expira-  
23 tion dates of terms of school board members elected at a special  
24 election must coincide with the date of the regular election. Until a  
25 board is elected and qualified, the assembly continues to serve as the  
26 board.

27 \* Sec. 3. AS 29 is amended by adding a new chapter to read:

28 CHAPTER 05. INCORPORATION.

29 ARTICLE 1. REQUIREMENTS.

1           Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that  
2 meets the following standards may incorporate as a home rule or first  
3 class city:

4           (1) the community has 600 or more permanent residents;

5           (2) the boundaries of the proposed city include all areas  
6 necessary to provide municipal services on an efficient scale;

7           (3) the economy of the community includes the human and  
8 financial resources necessary to provide municipal services; in con-  
9 sidering the economy of the community, the Local Boundary Commission  
10 shall consider property values, economic base, personal income, re-  
11 source and commercial development, anticipated functions, and the  
12 expenses and income of the proposed city, including the ability of the  
13 community to generate local revenue;

14           (4) the population of the community is stable enough to  
15 support city government;

16           (5) there is a demonstrated need for city government.

17           (b) A community that meets all the standards established in (a)  
18 of this section except (a)(1) may incorporate as a second class city.

19           Sec. 29.05.020. LIMITATIONS ON INCORPORATION OF A CITY. (a) A  
20 community in the unorganized borough may not incorporate as a city if  
21 the services to be provided by the proposed city can be provided by  
22 annexation to an existing city.

23           (b) A community within a borough may not incorporate as a city  
24 if the services to be provided by the proposed city can be provided on  
25 an areawide or nonareawide basis by the borough in which the proposed  
26 city is located, or by annexation to an existing city.

27           Sec. 29.05.030. INCORPORATION OF A BOROUGH. (a) An area that  
28 meets the following standards may incorporate as a home rule, first  
29 class, or second class borough:

*Exclusion?*

*→ demonstrate?*

1 (1) the population of the area is interrelated and inte-  
2 grated as to its social, cultural, and economic activities, and is  
3 large and stable enough to support borough government;

4 (2) the boundaries of the proposed borough conform gener-  
5 ally to natural geography and include all areas necessary for full  
6 development of municipal services;

7 (3) the economy of the area includes the human and finan-  
8 cial resources capable of providing municipal services; evaluation of  
9 an area's economy includes land use, property values, total economic  
10 base, total personal income, resource and commercial development,  
11 anticipated functions, expenses, and income of the proposed borough;

12 (4) land, water, and air transportation facilities allow  
13 the communication and exchange necessary for the development of inte-  
14 grated borough government.

(b) An area may not incorporate as a third class borough.

ARTICLE 2. PROCEDURE.

17 Sec. 29.05.060. PETITION. Municipal incorporation is proposed  
18 by filing a petition with the department. <sup>C+RA.</sup> The petition shall include  
19 the following information about the proposed municipality:

20 (1) class;  
21 (2) name;  
22 (3) boundaries;  
23 (4) maps, documents, and other information required by the  
24 department;

25 (5) composition and apportionment of the governing body;  
26 (6) a proposed operating budget for the municipality pro-  
27 jecting sources of income and items of expenditure through the first  
28 full fiscal year of operation;

29 (7) for a borough, based on the number who voted in the

*Haines*  
*Only*

*Sentence?  
Structure*

*1st class  
Can designate*

1 respective areas in the last general election, the signature and  
2 resident address of 15 percent of the voters in

3 (A) home rule and first class cities in the area of  
4 the proposed borough; and

5 (B) the area of the proposed borough outside home rule  
6 and first class cities;

7 (8) for a first class borough, a designation of areawide  
8 powers to be exercised;

9 (9) for a second class borough, a designation of areawide  
10 and nonareawide powers to be exercised; *cannot be changed w/o vote*

11 (10) for a first or second class city, a designation of the  
12 powers to be exercised;

13 (11) for a home rule or first class city, based on the  
14 number who voted in the area in the last general election, the signa-  
15 tures and resident address of 50 voters in the proposed city or of 15  
16 percent of the voters in the proposed city, whichever is greater;

17 (12) for a second class city, based on the number who voted  
18 in the area in the last general election, the signature and resident  
19 address of 25 voters in the proposed city or of 15 percent of the  
20 voters in the proposed city, whichever is greater;

21 (13) for a home rule municipality, a proposed home rule  
22 charter.

23 Sec. 29.05.070. REVIEW. The department shall review an incorpo-  
24 ration petition for content and signatures and shall return a defi-  
25 cient petition for correction and completion.

26 Sec. 29.05.080. INVESTIGATION. (a) If an incorporation peti-  
27 tion contains the required information and signatures, the department  
28 shall investigate the proposal and shall hold at least one public  
29 informational meeting in the area proposed for incorporation. The

1 department shall publish notice of the meeting.

2 (b) The department may combine incorporation petitions from the  
3 same general area.

4 (c) The department shall report its findings to the Local Bound-  
5 ary Commission with its recommendations regarding the incorporation.

6 Sec. 29.05.090. HEARING. The Local Boundary Commission shall  
7 hold at least one public hearing in the area proposed to be incorpo-  
8 rated for the purpose of receiving testimony and evidence on the  
9 proposal.

10 Sec. 29.05.100. DECISION. (a) If the Local Boundary Commission  
11 determines that a proposed municipality fails to meet the standards  
12 for incorporation, it shall reject the petition. If the commission  
13 determines that the proposed municipality meets the standards, it  
14 shall accept the petition. If the commission determines that the  
15 proposed boundaries can be altered to meet the standards, it may alter  
16 the boundaries and accept the petition.

17 (b) A Local Boundary Commission decision under this section may  
18 be appealed under the Administrative Procedure Act (AS 44.62).

19 Sec. 29.05.110. INCORPORATION ELECTION. (a) The Local Boundary  
20 Commission shall immediately notify the director of elections of its  
21 acceptance of an incorporation petition. Within 30 days after notifi-  
22 cation, the director of elections shall order an election in the pro-  
23 posed municipality to determine whether the voters desire incorpora-  
24 tion and, if so, to elect the initial municipal officials. If incor-  
25 poration is rejected, no officials are elected. The election must be  
26 held not less than 30 or more than 90 days after the date of the  
27 election order. The election order must specify the dates during  
28 which nomination petitions for election of initial officials may be  
29 filed.

1 (b) A voter who has been a resident of the area within the pro-  
2 posed municipality for 30 days before the date of the election order  
3 may vote.

4 (c) Areawide borough powers included in an incorporation peti-  
5 tion are considered to be part of the incorporation question. In an  
6 election for the incorporation of a second class borough, each non-  
7 areawide power to be exercised is placed separately on the ballot.  
8 Adoption of a nonareawide power requires a majority of the votes ~~cast~~  
9 on the question, and the vote is limited to the voters residing in the  
10 proposed borough but outside all cities in the proposed borough.

11 (d) A home rule charter included in an incorporation petition  
12 under AS 29.05.060(13) is considered to be part of the incorporation  
13 question. The home rule charter is adopted if the voters approve in-  
14 corporation of the municipality.

15 (e) The director of elections shall supervise the election in  
16 the general manner prescribed by the Alaska Election Code (AS 15).  
17 The state shall pay all election costs under this section.

18 Sec. 29.05.120. ELECTION OF INITIAL OFFICIALS. (a) Nominations  
19 for initial municipal officials are made by petition. The petition  
20 shall be in the form prescribed by the director of elections and shall  
21 include the name and address of the nominee and a statement of the  
22 nominee that the nominee is qualified under the provisions of this  
23 title for the office that is sought. A person may file for and occupy  
24 more than one office, but may not serve simultaneously as

25 (1) borough mayor and as a member of the assembly; or

26 (2) city mayor and as a member of the council. *in ~~the~~ ~~state~~ ~~of~~ ~~Alaska~~*

27 (b) Except for a proposed second class city, petitions to nomi-  
28 nate initial officials must include the signature and resident address  
29 of 50 voters in the area of the proposed municipality, or that area of

*1st Class*

1 the proposed municipality from which the officials are to be elected  
2 under the composition and apportionment set out in the accepted incor-  
3 poration petition.

4 (c) Petitions to nominate initial officials of a second class  
5 city must include the signature and resident address of 10 voters in  
6 the area of the proposed city.

7 (d) The director of elections shall supervise the election in  
8 the general manner prescribed by the Alaska Election Code (AS 15).  
9 The state shall pay all election costs.

10 (e) The initial elected officials take office on the first  
11 Monday following certification of their election.

12 (f) The initial elected members of the governing body shall  
13 determine by lot the length of their terms of office so that a propor-  
14 tionate number of terms expire each year, resulting in staggered terms  
of office for members subsequently elected.

15 Sec. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE  
16 AREAS. (a) A service area in a newly incorporated municipality shall  
17 be integrated into the municipality within two years after the date of  
18 incorporation. On integration the municipality succeeds to all the  
19 rights, powers, duties, assets and liabilities of the service area.  
20 On integration all property in the service area subject to taxation to  
21 pay the principal and interest on bonds at the time of integration  
22 remains subject to taxation for that purpose.

23 (b) After integration, the municipality may exercise in a former  
24 service area all of the rights and powers exercised by the service  
25 area at the time of integration, and, as successor to the service  
26 area, may levy and collect special charges, taxes, or assessments to  
27 amortize bonded indebtedness incurred by the service area or by a  
28 municipality in which the service area was formerly located.  
29

*Public Utility  
Districts?*

1           Sec. 29.05.140. TRANSITION. (a) The powers and duties exer-  
2 cised by cities and service areas that are succeeded to by a newly  
3 incorporated municipality continue to be exercised by the cities and  
4 service areas until the new municipality assumes the powers and func-  
5 tions, which may not exceed two years after the date of incorporation.  
6 Ordinances, rules, resolutions, procedures, and orders in effect  
7 before the transfer remain in effect until superseded by the action of  
8 the new municipality.

9           (b) Before the assumption, the new municipality shall give  
10 written notice of its assumption of the rights, powers, duties,  
11 assets, and liabilities under this section and AS 29.05.130 to the  
12 city or service area concerned. Municipal officials shall consult  
13 with the officials of the city or service area concerned and arrange  
14 an orderly transfer.

15           (c) After the incorporation of a new municipality, no service  
16 area in it may assume new bonded indebtedness, make a contract, or  
17 transfer an asset without the consent of the governing body.

18           (d) This section applies to home rule and general law municipal-  
19 ities.

20           Sec. 29.05.150. CHALLENGE OF LEGALITY. A person may not chal-  
21 lenge the formation of a municipality except within six months after  
22 the date of its incorporation.

23                           ARTICLE 3. TRANSITIONAL ASSISTANCE.

24           Sec. 29.05.180. ORGANIZATION GRANTS TO CITIES. (a) To defray  
25 the cost of transition to city government and to provide for interim  
26 government operations, each city incorporated after July 1, 1983 is  
27 entitled to an organization grant of \$50,000 for the first full or  
28 partial fiscal year after incorporation.

29           (b) To defray the cost of reclassification, each second class

*in the unorg. borough*

1 city incorporated before July 1, 1983 that reclassifies as a home rule  
2 or first class city after July 1, 1983 is entitled to an organization  
3 grant equal to \$50,000 for the first full or partial fiscal year after  
4 reclassification.

5 (c) A city entitled to an organization grant under (a) or (b) of  
6 this section is entitled to a second organization grant of \$25,000.  
7 The Department of Community and Regional Affairs shall disburse the  
8 second organization grant within 30 days after the beginning of the  
9 city's second fiscal year after incorporation or reclassification, or  
10 as soon after that time as money is appropriated and available for the  
11 purpose.

12 (d) The Department of Community and Regional Affairs shall  
13 disburse an organization grant under (a) and (b) of this section  
14 within 30 days after certification of the incorporation election or  
15 the reclassification election, or as soon after certification as money  
16 is appropriated and available for the purpose.

17 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHES. (a) For the  
18 purpose of defraying the cost of transition to borough government and  
19 to provide for interim governmental operations, each borough incorpo-  
20 rated after July 1, 1983, is entitled to organization grants as  
21 follows:

- 22 (1) \$300,000 for the borough's first full or partial fiscal  
23 year;
- 24 (2) \$200,000 for the borough's second fiscal year; and
- 25 (3) \$100,000 for the borough's third fiscal year.

26 (b) The department shall disburse the first organization grant  
27 to a borough within 30 days after certification of the incorporation  
28 election favoring incorporation of a borough, or as soon after that as  
29 money is appropriated and available for the purpose. The second grant

1 shall be disbursed within 30 days after the beginning of the borough's  
2 second fiscal year, or as soon after that as money is appropriated and  
3 available for the purpose. The third grant shall be disbursed within  
4 30 days after the beginning of the borough's third fiscal year, or as  
5 soon after that as money is appropriated and available for the pur-  
6 pose.

7 (c) This section does not apply to a borough incorporated by  
8 consolidation or to a unified municipality.

9 Sec. 29.05.200. ORGANIZATION GRANT FUND. (a) The organization  
10 grant fund is established in the department. An appropriation made to  
11 the fund shall be used for organization grants to municipalities that  
12 qualify under AS 29.05.180 or 29.05.190.

13 (b) Before August 31 of each fiscal year the department shall  
14 submit a report to the Department of Administration indicating

15 (1) each municipality expected to qualify to receive an  
16 organization grant during the next fiscal year;

17 (2) the amount of money needed to cover all organization  
18 grants expected to be awarded during the next fiscal year.

19 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGHES. (a)  
20 Within 30 days after the date of incorporation of a borough incorpo-  
21 rated after July 1, 1983, the department shall determine the popula-  
22 tion of the borough.

23 (b) The department shall provide assistance to each borough in-  
24 corporated after July 1, 1983, in

25 (1) establishing the initial sales and use tax assessment  
26 and collection department if the borough has adopted a sales or use  
27 tax;

28 (2) determining the initial property tax assessment roll if  
29 the borough has adopted a property tax, including contracting for

1 appraisals of property needed to complete the initial assessment.

2 (c) This section does not apply to a borough incorporated by  
3 consolidation or to a unified municipality.

4 \* Sec. 4. AS 29 is amended by adding a new chapter to read:

5 CHAPTER 06. ALTERATION OF MUNICIPALITIES.

6 ARTICLE 1. CHANGE OF NAME.

7 Sec. 29.06.010. CHANGE OF MUNICIPAL NAME. (a) The governing  
8 body of a municipality may change the official municipal name by  
9 adopting an ordinance for the purpose and filing the ordinance with  
10 the office of the lieutenant governor. Upon receipt of an ordinance  
11 ratified by the voters, the lieutenant governor shall issue an order  
12 to the municipality changing its existing name. The name change shall  
13 become effective on a date fixed in the order and occurring within 45  
14 days after receipt of the ordinance. A copy of the order shall be  
15 transmitted to the department.

16 (b) If an ordinance adopted under (a) of this section that  
17 results in a change of the municipal name is subsequently repealed,  
18 the lieutenant governor shall issue an order reinstating the former  
19 name within 45 days after the date of the order, unless a different  
20 name is adopted as provided in (a) of this section.

21 (c) When a municipal name change takes effect by means of an  
22 order issued under (a) or (b) of this section, a civil or criminal  
23 suit, application, petition, hearing or other proceeding to which the  
24 municipality is a party and that is pending at or brought after the  
25 date the name change takes effect shall proceed in the municipal name  
26 as changed by the order.

27 (d) This section applies to home rule and general law municipal-  
28 ities.

29 ARTICLE 2. ANNEXATION AND DETACHMENT.

1           Sec. 29.06.040. LOCAL BOUNDARY COMMISSION. (a) The Local  
2 Boundary Commission may consider any proposed municipal boundary  
3 change. It may reject the proposed change, accept the proposed  
4 change, or alter the boundaries and accept the proposal as altered. A  
5 Local Boundary Commission decision under this subsection may be ap-  
6 pealed under the Administrative Procedure Act (AS 44.62).

7           (b) The Local Boundary Commission may present a proposed muni-  
8 cipal boundary change to the legislature during the first 10 days of a  
9 regular session. The change becomes effective 45 days after presenta-  
10 tion or at the end of the session, whichever is earlier, unless dis-  
11 approved by a resolution concurred in by a majority of the members of  
12 each house.

13           (c) In addition to the regulations governing annexation by local  
14 action adopted under AS 44.47.567, the Local Boundary Commission shall  
15 establish procedures for annexation and detachment of territory by  
16 municipalities by local action. The procedures established under this  
17 subsection include a provision that

18           (1) a proposed annexation and detachment must be approved  
19 by a majority of votes on the question cast by voters residing in the  
20 area proposed to be annexed or detached;

21           (2) municipally owned property adjoining the municipality  
22 may be annexed by ordinance without voter approval; and

23           (3) an area adjoining the municipality may be annexed by  
24 ordinance without an election if all property owners and voters in the  
25 area petition the governing body.

26           (d) A boundary change effected under (a) and (b) of this section  
27 prevails over a boundary change initiated by local action, without  
28 regard to priority in time.

29           Sec. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS. A military

1 reservation may be annexed to a municipality in the same manner as  
2 prescribed for other territory under AS 29.06.040. If a city in a  
3 borough annexes a military reservation under this section, the area  
4 encompassing the military reservation automatically is annexed to the  
5 borough in which the city is located.

6 Sec. 29.06.060. APPLICATION. AS 29.06.040 - 29.06.060 apply to  
7 home rule and general law municipalities.

8 ARTICLE 3. MERGER AND CONSOLIDATION.

9 Sec. 29.06.090. MERGER AND CONSOLIDATION. (a) Two or more  
10 municipalities may merge or consolidate to form a single municipality,  
11 except a third class borough may not be formed through merger or  
12 consolidation.

13 (b) Two methods may be used to initiate merger or consolidation  
14 of municipalities:

15 (1) petition to the Local Boundary Commission under regula-  
16 tions adopted by the commission; or

17 (2) the local option method specified in AS 29.06.100 -  
18 29.06.160.

19 Sec. 29.06.100. PETITION. (a) Residents of two or more munici-  
20 palities may file a merger or consolidation petition with the depart-  
21 ment. The petition must be signed by a number of voters of each  
22 existing municipality equal to at least 25 percent of the number of  
23 votes cast in each municipality's last regular election.

24 (b) The petition includes

25 (1) the name and class of each existing municipality;

26 (2) the name and class of the proposed municipality;

27 (3) the proposed composition and apportionment of the  
28 governing body;

29 (4) maps, documents, and other information that shows that

1 the proposed municipality meets the standards for municipal incorpora-  
2 tion.

3 Sec. 29.06.110. REVIEW. (a) The department shall review a  
4 merger or consolidation petition for content and signatures and shall  
5 return a deficient petition for correction or completion.

6 (b) If the petition contains the required information and signa-  
7 tures, the department shall investigate the proposal.

8 (c) The department shall report its findings to the Local Bound-  
9 ary Commission with its recommendations regarding the merger or con-  
10 solidation.

11 Sec. 29.06.120. HEARING. After receipt of the report by the  
12 department on a merger or consolidation petition, the Local Boundary  
13 Commission shall hold at least one public hearing in each of the  
14 existing municipalities included in the petition, unless officials of  
15 the municipalities agree to a single hearing.

16 Sec. 29.06.130. DECISION. (a) If the Local Boundary Commission  
17 determines that the proposed municipality fails to meet the standards  
18 for incorporation, it shall reject the merger or consolidation peti-  
19 tion. If the commission determines that the proposed municipality  
20 meets these standards, it shall accept the petition. If the commis-  
21 sion determines that the proposed boundaries or the composition and  
22 apportionment of the governing body can be altered to meet the stan-  
23 dards, it may alter the proposal and accept the petition.

24 (b) A Local Boundary Commission decision under this section may  
25 be appealed under the Administrative Procedure Act (AS 44.62).

26 Sec. 29.06.140. ELECTION. (a) The Local Boundary Commission  
27 shall immediately notify the director of elections of its acceptance  
28 of a merger or consolidation petition. Within 30 days after  
29 notification, the director of elections shall order an election in the

1 area to be included in the new municipality to determine whether the  
2 voters desire merger or consolidation. The election must be held not  
3 less than 30 or more than 90 days after the election order. A voter  
4 who is a resident of the area to be included in the proposed muni-  
5 cipality may vote.

6 (b) The director of elections shall supervise the election in  
7 the general manner prescribed by the Alaska Election Code (AS 15).  
8 The state shall pay all election costs.

9 (c) The director of elections shall certify the election re-  
10 sults. If merger or consolidation is approved, the director of elec-  
11 tions shall, within 10 days, set a date for election of officials of  
12 the new municipality. The election date must be not less than 60 or  
13 more than 90 days after the election order and it is the effective  
14 date for the merger or consolidation.

15 Sec. 29.06.150. ASSETS AND LIABILITIES. (a) When two or more  
16 municipalities merge, one succeeds to the rights, powers, duties,  
17 assets, and liabilities of the others.

18 (b) When two or more municipalities consolidate, the newly  
19 incorporated municipality succeeds to the rights, powers, duties,  
20 assets, and liabilities of the consolidated municipalities.

21 Sec. 29.06.160. TRANSITION. After merger or consolidation, the  
22 ordinances, resolutions, regulations, procedures, and orders of the  
23 former municipalities remain in force in their respective territories  
24 until superseded by the action of the new municipality.

25 Sec. 29.06.170. APPLICATION. AS 29.06.090 - 29.06.170 apply to  
26 home rule and general law municipalities.

27 ARTICLE 4. UNIFICATION OF MUNICIPALITIES.

28 Sec. 29.06.190. UNIFICATION OF MUNICIPALITIES AUTHORIZED. A  
29 borough and all cities in the borough may unite to form a single unit

1 of home rule government by complying with AS 29.06.190 - 29.06.410.

2 Sec. 29.06.200. UNIFICATION PROPOSED. (a) Formation of a  
3 charter commission to prepare a unification charter shall be proposed  
4 by resolution of the assembly or by petition. A resolution to propose  
5 formation of a charter commission may be adopted not more often than  
6 once every 12 months.

7 (b) An assembly, a council, or a person living in the area  
8 proposed for unification may initiate a unification petition.

9 Sec. 29.06.210. PETITION REQUIREMENTS. (a) A unification peti-  
10 tion shall read:

11 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICA-  
12 TION CHARTER. We, the undersigned, qualified voters of the borough do  
13 hereby petition that the following proposition be placed before the  
14 voters as provided by law: 'Shall a charter commission be formed (and  
15 charter commission members be elected as elsewhere provided on this  
16 ballot) to prepare, adopt and submit to the voters for their approval  
17 or rejection a proposed charter uniting the borough and all cities  
18 within it as a single unit of home rule government having the powers,  
19 duties and functions of a unified municipality as authorized by law?  
20 Yes [ ] No [ ]'

21 Inside First Outside First  
22 Class or Class or  
23 Signature Address Home Rule City [ ] Home Rule City [ ]"

24 (b) The petition shall be signed by at least

25 (1) the number of voters residing outside all home rule and  
26 first class cities in the borough equal to 25 percent of the votes  
27 cast in that area in the last regular borough election; and

28 (2) the number of voters residing in home rule or first  
29 class cities in the borough equal to 25 percent of the votes cast in

1 all home rule and first class cities in the borough in the last regu-  
2 lar borough election.

3 Sec. 29.06.220. REVIEW OF PETITION. The assembly shall review a  
4 unification petition within 15 days to determine whether it complies  
5 with AS 29.06.210. If the petition does not meet the designated re-  
6 quirements, it shall be immediately returned to the person who ini-  
7 tiated the petition with a statement indicating which requirements  
8 have not been satisfied.

9 Sec. 29.06.230. DUTIES OF CHARTER COMMISSION. The charter  
10 commission shall prepare, adopt, and submit to the voters for approval  
11 or rejection a proposed home rule charter for the area to be unified.

12 Sec. 29.06.240. COMPOSITION OF CHARTER COMMISSION. The charter  
13 commission shall consist of 11 voters, three of whom are residents  
14 elected at large from the borough and eight of whom, proportionate to  
15 the population as determined by the department, are

16 (1) residents of and elected from the area outside all home  
17 rule and first class cities in the borough; or,

18 (2) residents of and elected from home rule or first class  
19 cities in the borough.

20 Sec. 29.06.250. CHARTER COMMISSION NOMINATIONS. (a) If the  
21 assembly determines that a unification petition meets the requirements  
22 of AS 29.06.210, or the assembly by its resolution proposes an elec-  
23 tion or formation of a charter commission, the assembly shall issue a  
24 call for the nomination of commission candidates, specifying the  
25 filing deadline and the procedure for making nominations.

26 (b) Charter commission candidates shall be nominated by petition  
27 signed by at least 50 voters of the area from which the candidate  
28 seeks election, or by a number of voters from that area equal to at  
29 least 10 percent of the number of votes cast from that area in the

1 last regular borough election, whichever is less.

2 (c) Nomination petitions shall be filed with the borough clerk  
3 at least 30 days after notice of the call for nominations has been  
4 given and on or before a date fixed by the assembly.

5 (d) If at least one nomination of a qualified charter commission  
6 candidate for each available seat is not filed, the unification peti-  
7 tion or resolution to propose formation of a charter commission is  
8 void and no election on the question shall be held.

9 Sec. 29.06.260. QUALIFICATIONS OF CANDIDATES. A person is eli-  
10 gible to be nominated as a candidate for the charter commission if  
11 that person was a voter of the area from which election is sought for  
12 at least one year immediately preceding the date the nomination peti-  
13 tion is filed.

14 Sec. 29.06.270. ELECTION OF CHARTER COMMISSION. (a) After  
15 receipt of a valid unification petition or adoption of an assembly  
16 resolution to propose formation of a charter commission, the assembly  
17 shall submit to the voters the question of whether a charter commis-  
18 sion shall be formed to prepare a proposed unification charter. The  
19 vote shall be held at the next regular borough election scheduled at  
20 least 90 days after receipt of the petition or adoption of the resolu-  
21 tion. The ballot shall be worded exactly as in AS 29.06.210(a).

22 (b) The election of charter commission members shall take place  
23 at the same time as the election on the question of formation of the  
24 commission.

25 (c) All costs incurred in conducting an election under AS 29.-  
26 06.190 - 29.06.410 shall be paid by the borough.

27 Sec. 29.06.280. REQUIREMENTS FOR APPROVAL OF FORMATION AND  
28 ELECTION OF CHARTER COMMISSION. (a) The votes on the question of  
29 formation of a charter commission shall be tabulated in two separate

1 classifications. One classification consists of all votes cast in  
2 first class and home rule cities in the borough. The other classifi-  
3 cation consists of all votes cast in the remaining area of the bor-  
4 ough. In order for formation of a charter commission to be approved,  
5 a majority of the votes in each classification must favor formation of  
6 the commission.

7 (b) If formation of a charter commission is approved, the candi-  
8 dates who received the highest number of votes from their respective  
9 areas shall serve as members of the commission.

10 Sec. 29.06.290. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

11 (a) The charter commission shall hold its first meeting within 30  
12 days after certification of its election. The commission shall elect  
13 from among its members a chairman and a deputy chairman.

14 (b) A majority of the total membership of the charter commission  
15 constitutes a quorum. A decision of the commission is not valid or  
16 binding unless approved by the number of members necessary to consti-  
17 tute a quorum.

18 (c) The charter commission may elect other officials from among  
19 its membership, adopt rules governing its procedures that are consis-  
20 tent with AS 29.06.190 - 29.06.410 and hire and discharge employees.

21 (d) Meetings of the charter commission shall be open to the  
22 public at all times. A journal of commission proceedings shall be  
23 kept and made available for public inspection at the borough office.

24 Sec. 29.06.300. VACANCIES. (a) Vacancies on the charter com-  
25 mission shall be filled by a majority vote of the commission, except  
26 the assembly shall appoint members to fill vacancies if, after a  
27 proposed charter is rejected by the voters, more than one-half of the  
28 members resign.

29 (b) A person who fills a vacancy on the charter commission must

1 be a voter of the same area as the person succeeded and must have been  
2 a voter of that area for at least one year immediately preceding the  
3 date the vacancy is filled.

4 Sec. 29.06.310. PER DIEM. The assembly may grant a per diem  
5 allowance to members of the charter commission and may reimburse the  
6 members for travel expenses incurred in carrying out the duties pre-  
7 scribed by AS 29.06.190 - 29.06.410. Costs, fees, and other expenses  
8 incurred by the commission are a debt of the borough and shall be paid  
9 upon proper verification.

10 Sec. 29.06.320. CHARTER PROVISIONS. The charter shall include

11 (1) provision for

12 (A) adjustment of existing bonded indebtedness and  
13 other obligations in a manner that will assure a fair and equit-  
14 able burden of taxation for debt service, subject to AS 29.06.-  
15 380;

16 (B) the establishment of service areas;

17 (C) if election of members of the governing body is  
18 not areawide, the establishment of districts for the election of  
19 members of the governing body of the proposed unified municipal-  
20 ity and procedures by which to reapportion the election dis-  
21 tricts;

22 (D) reapportionment of districts if they are estab-  
23 lished;

24 (E) nonpartisan government, and the selection, organi-  
25 zation, authority, and responsibilities of the governing body and  
26 its executive and administrator;

27 (F) the transfer or other disposition of property and  
28 other rights, claims, assets, and franchises of the  
29 municipalities to be unified under the charter;

- 1 (G) exercise of the rights of initiative and referen-  
2 dum;  
3 (2) a method of amending the charter;  
4 (3) the date on which the charter, if approved at the  
5 charter election, is effective;  
6 (4) designation of the proposed unified municipality's  
7 official name;  
8 (5) other charter provisions that may be included in a home  
9 rule charter.

10 Sec. 29.06.330. PUBLIC HEARINGS. Both before and after drafting  
11 the proposed home rule charter, the charter commission shall hold a  
12 public hearing in each area represented on the assembly. Other public  
13 hearings may be held by the commission as it considers necessary.

14 Sec. 29.06.340. FILING OF PROPOSED CHARTER. Upon the adoption  
15 of a proposed home rule charter by the charter commission, the charter  
16 shall be signed by at least a majority of the total membership of the  
17 commission and shall be filed with the borough clerk. A copy of the  
18 charter with signatures affixed shall also be filed with the clerk of  
19 each city in the borough.

20 Sec. 29.06.350. PUBLICATION AND POSTING OF PROPOSED CHARTER.  
21 Within 10 days after filing the proposed home rule charter, the bor-  
22 ough clerk shall have it published. In addition, the clerk shall have  
23 a copy of the proposed charter posted in at least three public places  
24 in each city and each unincorporated community in the borough. Copies  
25 of the proposed charter shall be made available by the assembly to the  
26 public at both the office of the borough clerk and the office of the  
27 clerk of each city in the borough. The clerk shall have notice of the  
28 publication, posting, and availability of the proposed charter  
29 published.

1           Sec. 29.06.360. ELECTION ON CHARTER. (a) The proposed home  
2 rule charter adopted by the charter commission shall be submitted to  
3 the voters at a borough election held within 60 days of the date of  
4 publication and posting of the proposed charter. The borough clerk  
5 shall prepare the ballots for use in the election and shall give  
6 notice of the election by radio and television in a manner intended to  
7 apprise the entire borough population of the election. The election  
8 shall be conducted under procedures applicable to regular elections.

9           (b) A person who is a voter of the borough may vote in the elec-  
10 tion on the proposed charter.

11           (c) If a majority of the votes in the area of the borough out-  
12 side all home rule or first class cities, and a majority of the votes  
13 in all home rule and first class cities in the borough are cast in  
14 favor of the proposed charter, the charter is ratified. If the char-  
15 ter is ratified, election results shall be certified to the commission  
16 and two copies of the charter shall be filed with

- 17           (1) the lieutenant governor;
- 18           (2) the commissioner of the department;
- 19           (3) the district recorder for the area of the borough;
- 20           (4) the clerk of the borough;
- 21           (5) the clerk of each city in the borough.

22           (d) If a proposed charter is rejected, the charter commission  
23 shall prepare, adopt, and submit another proposed charter to the  
24 voters at a borough election held within one year after the date of  
25 the first charter election. If the second proposed charter is also  
26 rejected, the charter commission shall be dissolved and the question  
27 of unification shall be treated as if it had never been proposed or  
28 approved.

29           Sec. 29.06.370. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon

1 ratification, the home rule charter of a unified municipality operates  
2 to dissolve all municipalities in the area unified in accordance with  
3 the charter.

4 Sec. 29.06.380. ASSETS AND LIABILITIES. A unified municipality  
5 shall succeed to all the assets and liabilities of the municipalities  
6 it unified. A bonded indebtedness or other debt incurred before  
7 unification remains the tax obligation of the area that contracted the  
8 debt, except that by ordinance the tax obligation may be assumed by a  
9 larger area if the governing body determines that the asset for which  
10 the bonded indebtedness or other debt was incurred benefited the  
11 larger area before unification, or benefits the larger area after  
12 unification. However, bonded indebtedness or other debt for sewage  
13 collection systems, water distribution systems, and streets, even if  
14 determined to be benefiting a larger area than that which incurred the  
15 debt, remains the tax obligation of the area that incurred the debt.

16 Sec. 29.06.390. TRANSITION. Within two years after ratification  
17 of the home rule charter, the unified municipality shall revise,  
18 repeal, or reaffirm all municipal ordinances, resolutions, and orders  
19 in effect in the area of the unified municipality on the date of  
20 unification. Each ordinance, resolution, regulation, or order in  
21 effect on the date of unification remains in effect until superseded  
22 by action of the unified municipality.

23 Sec. 29.06.400. RIGHT TO STATE AND FEDERAL AID. All provisions  
24 of law authorizing aid from the state or federal government to a  
25 former municipality that was in the area of a unified municipality  
26 remain in effect after unification.

27 Sec. 29.06.410. POWERS OF A UNIFIED MUNICIPALITY. A municipal-  
28 ity unified under AS 29.06.190 - 29.06.410 has all powers

29 (1) not prohibited by law or charter; and

1 (2) granted to a home rule borough.

2 Sec. 29.06.420. APPLICATION. AS 29.06.190 - 29.06.420 apply to  
3 home rule and general law municipalities.

4 ARTICLE 5. DISSOLUTION.

5 Sec. 29.06.450. METHODS OF DISSOLUTION. (a) Two petition  
6 methods may be used to initiate dissolution of a municipality;

7 (1) petition to the Local Boundary Commission under regula-  
8 tions adopted by the commission; or

9 \* (2) the local option method specified in AS 29.06.460 -  
10 29.06.510.

11 (b) The department shall investigate a municipality that it con-  
12 siders to be inactive and shall report to the Local Boundary Commis-  
13 sion on the status of the municipality. The commission may submit its  
14 recommendation to the legislature that the municipality be dissolved  
15 in the manner provided for submission of boundary changes in art. X,  
16 sec. 12 of the state constitution.

17 (c) A borough is dissolved when its entire territory is included  
18 in a home rule or first class city or cities. A city is dissolved  
19 when all its powers become areawide borough powers.

20 Sec. 29.06.460. PETITION. (a) Residents of a municipality may  
21 file a dissolution petition with the department in the form prescribed  
22 by the department. The petition must be signed by a number of voters  
23 equal to at least 25 percent of the number of votes cast in the last  
24 regular election in that municipality.

25 (b) The petition must include

26 (1) the name of the municipality;

27 (2) maps, documents, and other information showing that the  
28 municipality meets the standards for dissolution.

29 Sec. 29.06.470. STANDARDS. (a) Except as provided in (b) of

1 this section, residents of a municipality may petition for dissolution  
2 when the municipality is free of debt, or, if in debt, each of its  
3 creditors is satisfied with a method of repayment and

4 (1) it no longer meets the minimum standards prescribed for  
5 incorporation by AS 29.05, or former AS 29.18.030 if it is a third  
6 class borough; or

7 (2) the municipality ceases to use each of its mandatory  
8 powers.

9 (b) Residents of a city in a borough may petition for dissolu-  
10 tion of the city if the borough consents to assume the city's rights,  
11 powers, duties, assets, and liabilities. The consent must be ratified  
12 by a majority of borough voters voting on the question.

13 Sec. 29.06.480. REVIEW. (a) The department shall review a dis-  
14 solution petition for content and signatures, and shall return a defi-  
15 cient petition for correction or completion.

16 (b) If the petition contains the required information and signa-  
17 tures, the department shall investigate the proposal.

18 Sec. 29.06.490. REPORT AND HEARING. (a) The department shall  
19 report its findings to the Local Boundary Commission with its recom-  
20 mendation regarding the dissolution of a municipality .

21 (b) The Local Boundary Commission shall hold at least one public  
22 hearing in the municipality proposed to be dissolved.

23 Sec. 29.06.500. DECISION. (a) If the Local Boundary Commission  
24 determines that a municipality fails to meet the standards for disso-  
25 lution, it shall reject the petition. If the commission determines  
26 that the municipality meets the standards, it shall accept the peti-  
27 tion.

28 (b) A Local Boundary Commission decision under this section may  
29 be appealed under the Administrative Procedure Act (AS 44.62).

1           Sec. 29.06.510. ELECTION. (a) The Local Boundary Commission  
2 shall immediately notify the director of elections of its acceptance  
3 of a dissolution petition. Within 30 days after notification, the  
4 director of elections shall order an election in the municipality to  
5 determine whether the voters desire dissolution. The election must be  
6 held at least 30 and not more than 90 days after the election order.  
7 A person who is a voter of the municipality may vote in the dissolu-  
8 tion election.

9           (b) The director of elections shall supervise the election in  
10 the general manner prescribed by the Alaska Election Code (AS 15).  
11 The state shall pay all election costs.

12           (c) The director of elections shall certify the election re-  
13 sults. If dissolution is approved, the director of elections shall  
14 declare that the municipality is dissolved effective on the date of  
15 certification.

16           Sec. 29.06.520. SUCCESSION. The government succeeding to a dis-  
17 solved municipality succeeds to all its rights, powers, duties, as-  
18 sets, and liabilities.

19           Sec. 29.06.530. APPLICATION. AS 29.06.450 - 29.06.530 apply to  
20 home rule and general law municipalities.

21 \* Sec. 5. AS 29 is amended by adding a new chapter to read:

22                           CHAPTER 10. HOME RULE MUNICIPALITIES.

23   ARTICLE 1. CHARTERS.

24           Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. (a) A general law  
25 borough or first class city may adopt a charter for its own govern-  
26 ment. A second class city may adopt a charter for its own government  
27 if the department determines from the best figures available that the  
28 population of the city is at least 600 permanent residents.

29           (b) At an election to incorporate as a city, an unincorporated

1 community with at least 600 permanent residents may adopt a charter  
2 for its own government and incorporate as a home rule municipality.

3 (c) At an election for borough incorporation, an area in the  
4 unorganized borough may adopt a charter for its own government and in-  
5 corporate as a home rule municipality.

6 (d) A home rule municipality may adopt a new charter.

7 (e) A proposed charter for an existing municipality is prepared  
8 by a charter commission. A charter commission election is called by  
9 filing a petition with the governing body or by resolution of the  
10 governing body. The petition shall be signed by a number of voters  
11 equal to 15 percent of the votes cast in the last regular election in  
12 the municipality.

13 (f) The proposed charter for an unincorporated community or an  
14 area of the unorganized borough shall be filed with the incorporation  
15 petition filed under AS 29.05.060.

16 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at  
17 least one model home rule charter for a borough and at least one model  
18 home rule charter for a city. The model charters shall be made avail-  
19 able to persons interested in filing a petition to incorporate a home  
20 rule municipality under AS 29.05.060.

21 Sec. 29.10.030. INITIATIVE AND REFERENDUM. (a) A home rule  
22 charter shall provide procedures for initiative and referendum.

23 (b) A charter may not require an initiative or referendum peti-  
24 tion to have a number of signatures greater than 25 percent of the  
25 total votes cast in the municipality at the last regular election.

26 (c) A charter may not permit the initiative and referendum to be  
27 used for a purpose prohibited by art. XI, sec. 7 of the state consti-  
28 tution.

29 Sec. 29.10.040. CHARTER COMMISSION CANDIDATES. (a) A candidate

1 for a charter commission shall be a voter of an existing municipality  
2 for three years immediately preceding the charter commission election.

3 (b) A charter commission candidate is nominated by a petition  
4 signed by at least 50 voters or the number of voters equal to 10  
5 percent of the number of votes cast in the municipality during the  
6 last regular election, whichever is less. A nomination petition shall  
7 be filed with the municipal clerk on or before a date fixed by the  
8 governing body.

9 (c) If at least seven nominations for qualified charter commis-  
10 sion candidates are not filed, the petition or resolution calling for  
11 a charter commission is void and no election on the question may be  
12 held.

13 Sec. 29.10.050. CHARTER COMMISSION ELECTION. At a charter com-  
14 mission election the voters of an existing municipality shall consider  
15 the question "Shall a charter commission be elected to prepare a pro-  
16 posed charter?" and shall elect the members of the commission. If the  
17 question is approved, the seven candidates receiving the highest  
18 number of votes shall immediately organize as a charter commission.

19 Sec. 29.10.060. PREPARATION OF CHARTER BY CHARTER COMMISSION.  
20 The charter commission shall, within one year, prepare a proposed home  
21 rule charter for an existing municipality. The proposed charter shall  
22 be signed by a majority of the members of the commission and filed in  
23 the office of the municipal clerk. Within 15 days, the clerk shall  
24 have the proposed charter published and make copies available. The  
25 commission shall give published notice of and hold at least one public  
26 hearing on the proposed charter before the signing and filing of the  
27 charter.

28 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule  
29 charter for an existing municipality shall be submitted to the voters

1 at an election held not less than 30 days or more than 90 days after  
2 the proposed charter is published. The proposed home rule charter for  
3 an unincorporated community or area in the unorganized borough shall  
4 be submitted to the voters at an incorporation election held under  
5 AS 29.05.110.

6 Sec. 29.10.080. CHARTER ADOPTION. (a) If a majority of those  
7 voting in an existing municipality favor the proposed charter or if a  
8 majority of those voting in an unincorporated area in the unorganized  
9 borough favor incorporation of a home rule municipality, the proposed  
10 charter becomes the organic law of the municipality effective on the  
11 date the election is certified. Thereafter, a court shall take judi-  
12 cial notice of the charter. The new home rule municipality shall file  
13 the indicated number of copies of the charter with

14 (1) the lieutenant governor -- two copies;

15 (2) the department -- two copies;

16 (3) the district recorder -- one copy;

17 (4) the municipal clerk -- one copy.

18 (b) At the time of voting on the proposed charter in a third  
19 class borough, voters shall vote also on whether the borough shall on  
20 adoption of the charter retain a combined assembly and school board or  
21 elect a separate assembly and board as otherwise provided for home  
22 rule boroughs. If a combined assembly and school board are approved  
23 at the charter election, the assembly serving at the time of the  
24 election continues to serve as the assembly and board on voter ap-  
25 proval of the charter and until terms of assembly members expire as  
26 provided before adoption of the charter. If a separate board and  
27 assembly are approved at the charter election, a school board shall be  
28 elected in conformity with AS 14.12.030 - 14.12.100 at the next  
29 regular election, if it occurs within 90 days of the date of the

1 charter election, or otherwise at a special election within 90 days of  
2 the date of the charter election. Expiration dates of terms of school  
3 board members elected at a special election must coincide with the  
4 date of the regular election. Until a board is elected and qualified,  
5 the assembly continues to serve as the board.

6 Sec. 29.10.090. CHARTER REJECTION. (a) If a proposed charter  
7 for an existing municipality is rejected, the charter commission shall  
8 prepare another proposed charter to be submitted to the voters at an  
9 election to be held within one year after the date of the first char-  
10 ter election. If the second proposed charter is also rejected, the  
11 charter commission shall be dissolved and the question of adoption of  
12 a charter shall be treated as if it had never been proposed or ap-  
13 proved.

14 (b) If incorporation of a home rule municipality is rejected by  
15 the voters in an unincorporated community or area in the unorganized  
16 borough, the proposed charter is rejected.

17 Sec. 29.10.100. CHARTER AMENDMENT. (a) A home rule charter may  
18 be amended as provided in the charter except that no amendment is  
19 effective unless ratified by the voters.

20 (b) This section applies to home rule municipalities.

## 21 ARTICLE 2. HOME RULE LIMITATIONS.

22 Sec. 29.10.200. LIMITATION OF HOME RULE POWERS. Only the fol-  
23 lowing provisions of this title apply to home rule municipalities as  
24 prohibitions on acting otherwise than as provided. These provisions  
25 supersede existing and prohibit future home rule enactments that  
26 provide otherwise:

27 (1) AS 29.05.140 (transition)

28 (2) AS 29.06.010 (change of municipal name)

29 (3) AS 29.06.040 - 29.06.060 (annexation and detachment)

- 1 (4) AS 29.06.090 - 29.06.170 (merger and consolidation)
- 2 (5) AS 29.06.190 - 29.06.420 (unification of
- 3 municipalities)
- 4 (6) AS 29.06.450 - 29.06.530 (dissolution)
- 5 (7) AS 29.10.100 (charter amendment)
- 6 (8) AS 29.20.010 (conflict of interest)
- 7 (9) AS 29.20.020 (meetings public)
- 8 (10) AS 29.20.050 (legislative power)
- 9 (11) AS 29.20.060 - 29.20.120 (assembly composition and
- 10 reorganization)
- 11 (12) AS 29.20.140 (qualifications of members of governing
- 12 body)
- 13 (13) AS 29.20.150 (term of office)
- 14 (14) AS 29.20.220 (executive power)
- 15 (15) AS 29.20.630 (prohibitions)
- 16 (16) AS 29.20.640 (reports)
- 17 (17) AS 29.25.010(a)(10) (municipal exemption on contractor
- 18 bond requirements)
- 19 (18) AS 29.25.050 (codification)
- 20 (19) AS 29.25.060 (resolutions)
- 21 (20) AS 29.26.030 (notice of elections)
- 22 (21) AS 29.26.050 (voter qualification)
- 23 (22) AS 29.26.240 - 29.26.360 (recall)
- 24 (23) AS 29.35.020 (extraterritorial jurisdiction)
- 25 (24) AS 29.35.030 (eminent domain)
- 26 (25) AS 29.35.050 (garbage and solid waste services)
- 27 (26) AS 29.35.070 (public utilities)
- 28 (27) AS 29.35.080 (alcoholic beverages)
- 29 (28) AS 29.35.120 (post audit)

- 1 (29) AS 29.35.150(b) (effect of areawide exercise of  
2 borough powers)
- 3 (30) AS 29.35.160 (education)
- 4 (31) AS 29.35.170(b) (assessment and collection of taxes)
- 5 (32) AS 29.35.180(b) (land use regulation)
- 6 (33) AS 29.35.250 (cities inside boroughs)
- 7 (34) AS 29.35.260 (cities outside boroughs)
- 8 (35) AS 29.35.340 (acquisition of areawide power)
- 9 (36) AS 29.40.160(a) - (c) (title to vacated areas)
- 10 (37) AS 29.40.200 (subdivisions of state land)
- 11 (38) AS 29.45.010 - 29.45.570 (property taxes)
- 12 (39) AS 29.45.650(c) and (d) (sales and use tax)
- 13 (40) AS 29.46.090 (exemption from special assessment)
- 14 (41) AS 29.47.200(b) (security for bonds)
- 15 (42) AS 29.47.260 (construction)
- 16 (43) AS 29.60.050(a) (limitation on computation and use of  
17 payment)
- 18 (44) AS 29.60.120(a) and (c) (state aid for health  
19 facilities and hospitals)
- 20 (45) AS 29.60.230 (state aid for hospital and health  
21 facility construction)
- 22 (46) AS 29.65.010 - 29.65.140 (general grant land)

23 \* Sec. 5. AS 29 is amended by adding a new chapter to read:

24 CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

25 ARTICLE 1. CONFLICT OF INTEREST AND PUBLIC MEETINGS.

26 Sec. 29.20.010. CONFLICT OF INTEREST. (a) Each municipality  
27 shall adopt a conflict of interest ordinance that provides that

28 (1) a member of the governing body shall declare a  
29 substantial financial interest the member has in an official action

1 and ask to be excused from a vote on the matter;

2 (2) the presiding officer shall rule on a request to be  
3 excused from a vote; and

4 (3) the decision of the presiding officer on a request to  
5 be excused from a vote may be overridden by the majority vote of the  
6 governing body.

7 (b) This section applies to home rule and general law municipal-  
8 ities.

9 Sec. 29.20.020. MEETINGS PUBLIC. (a) Meetings of all municipal  
10 bodies shall be public as provided in AS 44.62.310. The governing  
11 body shall provide reasonable opportunity for the public to be heard  
12 at regular and special meetings.

13 (b) This section applies to home rule and general law municipal-  
14 ities.

15 ARTICLE 2. GOVERNING BODIES.

16 Sec. 29.20.050. LEGISLATIVE POWER. (a) The legislative power  
17 of a borough is vested in the assembly. The legislative power of a  
18 city is vested in the council.

19 (b) This section applies to home rule and general law municipal-  
20 ities.

21 Sec. 29.20.060. ASSEMBLY COMPOSITION AND APPORTIONMENT. (a)  
22 Assembly composition and apportionment shall be consistent with the  
23 equal representation standards of the Constitution of the United  
24 States.

25 (b) The assembly of a newly incorporated borough is, after  
26 incorporation and until the adoption of an ordinance providing for a  
27 change in composition or apportionment, composed of the number of  
28 members and apportioned as set out in the incorporation petition  
29 approved by the voters. If the borough is already incorporated, the

1 assembly shall be composed and apportioned in a manner that is consis-  
2 tent with the requirements of this section and prescribed by charter  
3 or ordinance.

4 (c) An assembly may not provide for weighted voting.

5 (d) A member of the assembly may not be elected or appointed by  
6 and from the council of a city in the borough.

7 (e) This section applies to home rule and general law municipal-  
8 ities.

9 Sec. 29.20.070. ASSEMBLY COMPOSITION AND FORM OF REPRESENTATION.

10 (a) The assembly shall provide for its composition and for the form  
11 of its representation.

12 (b) Not later than the first regular election that occurs after  
13 the report of a federal decennial census, the assembly shall propose  
14 and submit to the voters of the borough, at that regular election or  
15 at a special election called for the purpose, one or more forms of  
16 assembly representation. The forms of representation that the assem-  
17 bly may submit to the voters are:

18 (1) election of members of the assembly at large by the  
19 voters throughout the borough;

20 (2) election of members of the assembly by district, in-  
21 cluding

22 (A) election at large by the voters throughout the  
23 borough, but with a requirement that a candidate live in an  
24 election district established by the borough for election of  
25 assembly members; or

26 (B) election from election districts established by  
27 the borough for the election of assembly members by the voters of  
28 a district;

29 (3) election of members of the assembly both at large and

1 by district.

2 (c) A form of assembly representation that includes election of  
3 assembly members under (b)(2) or (b)(3) of this section shall be sub-  
4 mitted to the voters of the borough with a plan of apportionment as  
5 required by AS 29.20.080.

6 (d) The assembly shall, within 30 days after certification of  
7 the results of the election held under this section, adopt an ordi-  
8 nance providing for

9 (1) composition of the assembly;

10 (2) the form of assembly representation that received the  
11 most votes; and

12 (3) if applicable, the apportionment of assembly seats in  
13 accordance with the form of representation that received the most  
14 votes.

15 (e) This section does not apply to a

16 (1) unified municipality;

17 (2) home rule borough if the home rule charter contains  
18 procedures for changing assembly composition and form of representa-  
19 tion.

20 Sec. 29.20.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a)  
21 Not later than two months after the official report of a federal de-  
22 cennial census, the assembly shall determine and declare by resolution  
23 whether the existing apportionment of the assembly meets the standards  
24 of AS 29.20.060. If the assembly submits to the voters a form of  
25 representation that includes election of assembly members under  
26 AS 29.20.070(b)(2) or (b)(3) the assembly shall submit with the propo-  
27 sition a proposed plan of apportionment that corresponds to the form  
28 of representation proposed. The assembly shall describe the plan of  
29 apportionment in the ballot proposition, and may present the plan in

1 any manner that it believes accurately describes the apportionment  
2 that is proposed under the form of representation. If the assembly  
3 determines that its existing apportionment meets the standards of  
4 AS 29.20.060, the assembly may include the existing apportionment as a  
5 proposed plan of apportionment of assembly seats that corresponds to a  
6 form of representation that is proposed.

7 (b) The assembly shall provide, by ordinance, for a change in an  
8 existing apportionment of the assembly whenever it determines that the  
9 apportionment does not meet the standards of AS 29.20.060. At the  
10 same time, the assembly may, by ordinance, change the composition of  
11 the assembly.

12 (c) If a petition signed by not less than 50 voters requests the  
13 assembly to determine whether the existing apportionment meets the  
14 standards for apportionment in AS 29.20.060, and the petition contains  
15 evidence that the existing apportionment does not meet those stan-  
16 dards, the assembly may make the determination requested. The assem-  
17 bly shall make a determination required by this subsection within two  
18 months of receipt of a petition that meets the requirements of this  
19 subsection.

20 (d) An ordinance adopted by the assembly under (b) or (c) of  
21 this section shall be submitted to the voters for approval. In order  
22 for the ordinance to be approved it must receive the approval of a  
23 majority of the votes cast.

24 (e) Within six months after a determination by the assembly  
25 under (b) or (c) of this section that the current apportionment does  
26 not meet the standards of AS 29.20.060 the assembly shall adopt an  
27 ordinance providing for reapportionment and submit the ordinance to  
28 the voters. If, at the end of the six-month time period, an ordinance  
29 providing for reapportionment has not been approved by the voters, the

1 commissioner shall provide for the reapportionment in accordance with  
2 the standards of AS 29.20.060 by preparing an order of reapportionment  
3 and delivering the order to the borough mayor.

4 Sec. 29.20.090. APPORTIONMENT APPEALS. (a) A reapportionment  
5 ordinance approved by the voters, or a decision of the assembly that  
6 the standards of AS 29.20.060 do not require a change in appor-  
7 tionment, may be appealed to the commissioner. Fifty voters may submit a  
8 petition to the commissioner requesting the commissioner to determine  
9 whether the proposed reapportionment ordinance approved by the voters  
10 meets the standards of AS 29.20.060 or whether a decision of the  
11 assembly that the standards of AS 29.20.060 do not require a change of  
12 apportionment is correct. If the petition asks the commissioner to  
13 review an ordinance approved by the voters under AS 29.20.080(e), the  
14 petition shall be delivered to the commissioner not later than 20 days  
15 after certification of the election. If the petition asks the commis-  
16 sioner to review a decision of the assembly under AS 29.20.080(c), the  
17 petition shall be delivered to the commissioner within 20 days of the  
18 decision of the assembly.

19 (b) The commissioner shall review the petition and may make the  
20 determination requested. The commissioner shall provide copies of the  
21 determination to the persons petitioning for appeal and to borough  
22 officials not later than 60 days after the commissioner receives the  
23 petition.

24 (c) If the commissioner determines that the proposed reappor-  
25 tionment ordinance approved by the voters does not meet the standards  
26 of AS 29.20.060, or if the commissioner determines that the decision  
27 of the assembly that the standards of AS 29.20.060 do not require a  
28 change of apportionment is not correct, the commissioner shall, by  
29 order, direct the assembly to prepare a reapportionment ordinance that

1 meets the standards of AS 29.20.060 and submit the ordinance to the  
2 voters.

3 (d) When the assembly has been directed by the commissioner to  
4 prepare a reapportionment ordinance under (c) of this section, the  
5 assembly shall, within two months after its receipt of the commis-  
6 sioner's order, adopt an ordinance providing for reapportionment. The  
7 assembly shall submit an ordinance adopted under this subsection to  
8 the voters at an election held within 60 days after the date of adop-  
9 tion of the reapportionment ordinance.

10 (e) If at the end of the time period provided under (d) of this  
11 section an ordinance providing for reapportionment has not been ap-  
12 proved by the voters, the commissioner shall provide for the reappor-  
13 tionment of the assembly in accordance with the standards of AS 29.-  
14 20.060 by preparing an order of reapportionment and delivering the  
15 order to the borough mayor.

16 Sec. 29.20.100. JUDICIAL REVIEW AND RELIEF. (a) The commis-  
17 sioner may request the superior court to enforce a reapportionment  
18 order issued under AS 29.20.090(e).

19 (b) Each of the following is subject to judicial review:

20 (1) a plan of reapportionment approved by the voters under  
21 AS 29.20.080(a);

22 (2) a determination by the assembly under AS 29.20.080 that  
23 the standards of AS 29.20.060 do not require a change in appor-  
24 tionment;

25 (3) a reapportionment ordinance approved by the voters  
26 under AS 29.20.080(d);

27 (4) a reapportionment order of the commissioner made under  
28 AS 29.20.090(c);

29 (5) a reapportionment ordinance approved by the voters

1 under AS 29.20.090(d); and

2 (6) a reapportionment order of the commissioner made under  
3 AS 29.20.090(e).

4 Sec. 29.20.110. EFFECTIVE DATE OF APPORTIONMENT. (a) A change  
5 in assembly apportionment or composition under AS 29.20.080 or 29.20.-  
6 090 is effective beginning with the first regular election for members  
7 of the assembly that is held more than 60 days after the later of

8 (1) approval of a reapportionment ordinance by the voters  
9 under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or

10 (2) the delivery to the mayor of a reapportionment order of  
11 the commissioner under AS 29.20.090(d).

12 (b) The provisions of (a) of this section do not apply to a  
13 borough in which a change in assembly composition or apportionment is  
14 subject to review and approval or determination of nonobjection by the  
15 Attorney General of the United States under the Voting Rights Act of  
16 1965, as amended (42 U.S.C. 1971 - 1974). A change in assembly compo-  
17 sition or apportionment subject to review under the Voting Rights Act  
18 of 1965, as amended, is effective beginning with the first regular  
19 election for members of the assembly that is held more than 60 days  
20 after

21 (1) receipt by the assembly of approval by the Attorney  
22 General of the United States of the proposed change in the composition  
23 or apportionment of the assembly;

24 (2) the delivery to the mayor of a reapportionment order of  
25 the commissioner under AS 29.20.090(e); or

26 (3) the last day on which the Attorney General of the  
27 United States may review a proposed change in the composition or  
28 apportionment of the assembly.

29 Sec. 29.20.120. APPLICABILITY OF APPORTIONMENT PROVISIONS. The

1 provisions of AS 29.20.080 - 29.20.110 do not apply to a

2 (1) unified municipality;

3 (2) home rule borough if the borough, by home rule charter,  
4 provides for reapportionment of the assembly.

5 Sec. 29.20.130. CITY COUNCIL COMPOSITION. Each first class city  
6 has a council of six members elected by the voters at large. Each  
7 second class city has a council of seven members elected by the voters  
8 at large. The council of a first or second class city may by ordi-  
9 nance provide for election of members other than on an at-large basis  
10 for all members.

11 Sec. 29.20.140. QUALIFICATIONS. (a) A borough voter is eligi-  
12 ble to be a member of the assembly and a city voter is eligible to be  
13 a member of the council. A member of the governing body who ceases to  
14 be a voter in the municipality immediately forfeits his office.

15 (b) A municipality may by ordinance establish a durational resi-  
16 dency requirement not to exceed three years for members of the govern-  
17 ing body.

18 (c) A municipality may by ordinance establish district residency  
19 requirements for members of its governing body. A member of the  
20 governing body who represents a district and who becomes a resident of  
21 another district in the municipality continues to serve until the next  
22 regular election unless provided otherwise by ordinance.

23 (d) Except by ordinance ratified by the voters, no limit may be  
24 placed on the total number of terms or number of consecutive terms a  
25 voter may serve on the governing body.

26 (e) This section applies to home rule and general law municipal-  
27 ities.

28 Sec. 29.20.150. TERM OF OFFICE. (a) A member of the governing  
29 body is elected for a three-year term and until his successor qual-

1 ifies, unless a different term not exceeding four years is prescribed  
2 by home rule charter or ordinance.

3 (b) Except when otherwise required by a change in composition or  
4 apportionment, if the term of a member of a governing body is changed  
5 by charter or ordinance the term of the member holding office when the  
6 change becomes effective is not affected.

7 (c) The regular term of office begins on the first Monday fol-  
8 lowing certification of the election, unless a different date is pre-  
9 scribed by charter or ordinance.

10 (d) This section applies to home rule and general law municipal-  
11 ities.

12 Sec. 29.20.160. PROCEDURES OF GOVERNING BODIES. (a) The assem-  
13 bly shall elect from among its members a presiding officer and a  
14 deputy presiding officer to serve at the pleasure of the members,  
15 except that in a borough that has adopted a manager form of government  
16 under AS 29.20.460 - 29.20.520 the mayor serves as presiding officer.  
17 In a city the mayor serves as presiding officer. If the presiding  
18 officer is not present or if the presiding officer is personally  
19 disqualified, the deputy presiding officer shall preside.

20 (b) A governing body shall hold at least one regular meeting  
21 each month unless otherwise provided by ordinance. If a majority of  
22 the members are given at least 24 hours oral or written notice and  
23 reasonable efforts are made to notify all members, a special meeting  
24 of the governing body may be held at the call of the presiding officer  
25 or at least one-third of the members. A special meeting may be con-  
26 ducted with less than 24 hours notice if all members are present or if  
27 absent members have waived in writing the required notice. Waiver of  
28 notice can be made before or after the special meeting is held. A  
29 waiver of notice shall be made a part of the journal for the meeting.

1 (c) A majority of the total membership of a governing body  
2 authorized by law constitutes a quorum. A member disqualified by law  
3 from voting on a question may be considered present for purposes of  
4 constituting a quorum. In the absence of a quorum any number of  
5 members may recess or adjourn the meeting to a later date.

6 (d) Actions of a governing body are adopted by a majority of the  
7 total membership of the body. Each member present shall vote on every  
8 question, unless required to abstain from voting on a question by law.  
9 The final vote of each member on each ordinance, resolution, or sub-  
10 stantive motion shall be recorded "yes" or "no", except that if the  
11 vote is unanimous it may be recorded "unanimous".

12 (e) A governing body shall maintain a journal of its official  
13 proceedings that shall be a public record.

14 (f) To the extent otherwise permitted by law, a governing body  
15 may determine by ordinance its own rules of procedure and order of  
16 business.

17 Sec. 29.20.170. VACANCIES. The governing body may provide by  
18 ordinance the manner in which a vacancy occurs in any elected office  
19 except the office of mayor or school board member. Unless otherwise  
20 provided by ordinance, the governing body shall declare an elective  
21 office, other than the office of mayor or school board member, vacant  
22 when the person elected

23 (1) fails to qualify or take office within 30 days after  
24 election or appointment;

25 (2) is physically absent from the municipality for 90  
26 consecutive days unless excused by the governing body;

27 (3) resigns and the resignation is accepted;

28 (4) is physically or mentally unable to perform the duties  
29 of office as determined by two-thirds vote of the governing body;

1 (5) is convicted of a felony or of an offense involving a  
2 violation of the oath of office;

3 (6) is convicted of a felony or misdemeanor described in  
4 AS 15.56 and two-thirds of the members of the governing body concur in  
5 expelling the person elected;

6 (7) is convicted of a violation of AS 15.13;

7 (8) no longer physically resides in the municipality and  
8 the governing body by two-thirds vote declares the seat vacant; or

9 (9) if a member of the governing body, misses three consec-  
10 utive regular meetings and is not excused.

11 Sec. 29.20.180. FILLING A VACANCY. (a) If a vacancy occurs in  
12 a governing body, the remaining members shall, within 30 days unless a  
13 different period is provided by ordinance, appoint a qualified person  
14 to fill the vacancy. If less than 30 days remain in a term, a vacancy  
15 may not be filled.

16 (b) Notwithstanding (a) of this section, if the membership is  
17 reduced to fewer than the number required to constitute a quorum, the  
18 remaining members shall, within seven days, appoint a number of quali-  
19 fied persons to constitute a quorum.

20 (c) A person appointed under this section serves until the next  
21 regular election, when a successor shall be elected to serve the  
22 balance of the term.

23 ARTICLE 3. MUNICIPAL EXECUTIVE AND ADMINISTRATOR.

24 Sec. 29.20.220. EXECUTIVE POWER. (a) The executive power in a  
25 municipality is vested in a mayor. The mayor of a home rule or uni-  
26 fied municipality is elected by the voters. The mayors of other  
27 municipalities are elected in accordance with AS 29.20.230.

28 (b) The mayor acts as ceremonial head of government, executes  
29 official documents on authorization of the governing body, and is

1 responsible for additional duties and powers prescribed by this chap-  
2 ter or by home rule charter.

3 (c) This section applies to home rule and general law municipal-  
4 ities.

5 Sec. 29.20.230. ELECTION AND TERM OF MAYOR. (a) The mayor of a  
6 borough or first class city is elected at large. The mayor of a  
7 borough or first class city serves a term of three years, unless by  
8 ordinance a different term not to exceed four years is provided. The  
9 current term of an incumbent mayor may not be altered. The regular  
10 term of a mayor of a borough or first class city begins on the first  
11 Monday following certification of the election.

12 (b) The mayor of a second class city is elected by and from the  
13 council, and serves until a successor is elected and qualifies. The  
14 council of a second class city shall meet on the first Monday after  
15 certification of the regular election and elect a mayor who takes  
16 office immediately. The mayor of a second class city serves a one-  
17 year term, unless a longer term is provided by ordinance. The mayor  
18 of a second class city may serve only while a member of the council  
19 regardless of the term established for the office of mayor.

20 (c) Except by ordinance ratified by the voters, no limit may be  
21 placed on the total number of terms or number of consecutive terms a  
22 mayor may serve.

23 Sec. 29.20.240. QUALIFICATIONS FOR THE OFFICE OF MAYOR. (a) A  
24 voter of the municipality is eligible to hold the office of mayor in a  
25 borough or first class city. A member of the city council is eligible  
26 to hold the office of mayor in a second class city.

27 (b) Residency requirements for the office of mayor not exceeding  
28 three years may be prescribed by ordinance.

29 Sec. 29.20.250. POWERS AND DUTIES OF MAYOR. (a) If a munici-

1           pality has not adopted a manager plan of government, the mayor is the  
2           chief administrator and the mayor has the same powers and duties as  
3           those of a manager under AS 29.20.500.

4           (b) The mayor may take part in the discussion of a matter before  
5           the governing body. The mayor may not vote, except that the mayor of  
6           a first class city or the mayor of a borough with a manager form of  
7           government may vote in the case of a tie. The mayor of a second class  
8           city, as a council member, may vote on all matters.

9           Sec. 29.20.260. EXECUTIVE ABSENCE. The borough mayor, subject  
10          to assembly approval, shall designate a person to act as mayor during  
11          the borough mayor's temporary absence or disability. If a manager  
12          plan has been adopted, the assembly shall designate by resolution a  
13          borough administrative official to act as manager during the manager's  
14          absence or disability.

15          Sec. 29.20.270. VETO. (a) Except as provided in (c) and (d) of  
16          this section, the mayor may veto an ordinance, resolution, motion, or  
17          other action of the governing body and may strike or reduce appropria-  
18          tion items.

19          (b) A veto must be exercised before the next regular meeting of  
20          the governing body and must be accompanied by a written explanation of  
21          the reasons for the veto. A veto may be overridden by vote of two-  
22          thirds of the authorized membership of the governing body within 21  
23          days following exercise of the veto, or at the next regular meeting,  
24          whichever is later.

25          (c) The veto does not extend to

26                 (1) appropriation items in a school budget ordinance;

27                 (2) actions of the governing body sitting as the board of  
28                 equalization or the board of adjustment;

29                 (3) adoption or repeal of a manager plan of government.

1 (d) The mayor of a second class city has no veto power.

2 Sec. 29.20.280. VACANCY IN THE OFFICE OF MAYOR. (a) The gov-  
3 erning body shall, by two-thirds concurring vote, declare the office  
4 of mayor vacant only when the person elected

5 (1) fails to qualify or take office within 30 days after  
6 election or appointment;

7 (2) unless excused by the governing body, is physically  
8 absent for 90 consecutive days;

9 (3) resigns and the resignation is accepted;

10 (4) is physically or mentally unable to perform the duties  
11 of office;

12 (5) is convicted of a felony or of an offense involving a  
13 violation of the oath of office;

14 (6) is convicted of a felony or misdemeanor described in  
15 AS 15.56;

16 (7) is convicted of a violation of AS 15.13;

17 (8) no longer physically resides in the municipality; or

18 (9) if a member of the governing body in a second class  
19 city, misses three consecutive regular meetings and is not excused.

20 (b) A vacancy in the office of mayor occurring six months before  
21 a regular election shall be filled by the governing body. The person  
22 appointed serves until the next regular election when a successor is  
23 elected to serve the balance of the term. If a member of the govern-  
24 ing body is appointed mayor, the member shall resign the seat on the  
25 governing body. If a vacancy occurs more than six months before a  
26 regular election, the governing body shall call a special election to  
27 fill the unexpired term.

28 (c) Notwithstanding (b) of this section, a vacancy in the office  
29 of mayor of a second class city shall be filled by and from the coun-

1 cil. A mayor appointed under this subsection serves the balance of  
2 the term to which appointed, except the mayor may serve only while a  
3 member of the council.

4 ARTICLE 4. BOARDS AND COMMISSIONS.

5 Sec. 29.20.300. SCHOOL BOARDS. (a) Each municipal school dis-  
6 trict has a school board. Except as provided in (b) of this section,  
7 members of a school board are elected at the regular election for  
8 three- year terms and until their successors take office. Members are  
9 elected at large unless a different method of election has been ap-  
10 proved by the voters in a regular election.

11 (b) The assembly is the school board for a third class borough.  
12 The mayor is the presiding officer of the assembly and president of  
13 the school board. However, the mayor may not veto an action of the  
14 school board.

15 Sec. 29.20.310. UTILITY BOARDS. (a) The governing body of a  
16 municipality operating a public utility may provide by ordinance for a  
17 utility board of five members and define the board's powers and  
18 duties.

19 (b) As determined by ordinance, members of a utility board are  
20 either appointed by the mayor and confirmed by the governing body or  
21 are elected at a regular election. The term of a utility board member  
22 is two years and until a successor is selected and qualifies. How-  
23 ever, the governing body may by ordinance provide for a different term  
24 not to exceed four years. The current term of an elected incumbent  
25 may not be altered.

26 (c) Vacancies on a utility board are filled by the mayor.  
27 Executive appointments shall be confirmed by the governing body. A  
28 person appointed to fill a vacancy on a utility board serves until the  
29 expiration of the term for which appointed and until a successor is

1 elected and qualifies.

2 (d) Unless otherwise provided by ordinance, a utility board  
3 shall

4 (1) choose its chairman and secretary;

5 (2) appoint the manager of the public utility for a term  
6 not longer than five years and set the manager's salary;

7 (3) formulate and enforce the general rules and policies of  
8 the utility.

9 Sec. 29.20.320. OTHER BOARDS AND COMMISSIONS. (a) The govern-  
10 ing body may by ordinance establish advisory, administrative, techni-  
11 cal, or quasi-judicial boards and commissions.

12 (b) Members of boards and commissions, except for members of the  
13 board of adjustment and assembly members serving on the board of  
14 equalization, are appointed by the mayor and confirmed by the govern-  
15 ing body.

16 ARTICLE 5. OTHER OFFICIALS AND EMPLOYEES.

17 Sec. 29.20.360. APPOINTMENT OF OFFICIALS. Unless otherwise pro-  
18 vided by ordinance, the municipal clerk, attorney, treasurer, and  
19 police chief are appointed by the chief administrator. Unless other-  
20 wise provided by ordinance, an official described in this section  
21 serves at the pleasure of the appointing authority and, if appointed  
22 by the chief administrator, must be confirmed by the governing body.

23 Sec. 29.20.370. MUNICIPAL ATTORNEY. The municipal attorney is  
24 the legal advisor of the governing body, the school board, and the  
25 other officials of the municipality. The municipal attorney repre-  
26 sents the municipality as attorney in civil and criminal proceedings.  
27 The school board may hire independent counsel when in its judgment  
28 independent counsel is needed.

29 Sec. 29.20.380. MUNICIPAL CLERK. (a) The municipal clerk shall

1           (1) give notice of the time and place of meetings of the  
2 governing body to the governing body and to the public;

3           (2) attend meetings of the governing body and keep the  
4 journal;

5           (3) arrange publication of notices, ordinances, and resolu-  
6 tions;

7           (4) maintain and make available for public inspection an  
8 indexed file containing municipal ordinances, resolutions, rules,  
9 regulations, and codes;

10           (5) attest deeds and other documents;

11           (6) perform other duties specified in this title or pre-  
12 scribed by the chief administrator or by the governing body.

13           (b) The governing body may combine the office of clerk with that  
14 of treasurer. If the offices are combined, the clerk-treasurer shall,  
15 as required of the treasurer, give bond to the municipality for the  
16 faithful performance of the duties as clerk-treasurer.

17           Sec. 29.20.390. MUNICIPAL TREASURER. (a) Except as provided in  
18 AS 14.14.060, the treasurer is the custodian of all municipal funds.  
19 The treasurer shall keep an itemized account of money received and  
20 disbursed. The treasurer shall pay money on vouchers drawn against  
21 appropriations.

22           (b) The treasurer shall give bond to the municipality in a sum  
23 that the governing body directs.

24           Sec. 29.20.400. DEPARTMENTS. (a) The governing body may estab-  
25 lish municipal departments and distribute functions among them.

26           (b) Each municipal department is administered by a department  
27 head. With the consent of the governing body, the mayor may serve as  
28 head of one or more departments or a single administrator may serve as  
29 head of two or more departments.

1           Sec. 29.20.410. PERSONNEL SYSTEM. (a) Except as provided by  
2 (b) of this section, appointments and promotions of municipal employ-  
3 ees are made on the basis of merit. The governing body may provide  
4 for a personnel system and classified service.

5           (b) By ordinance the governing body may designate confidential  
6 or managerial positions that are wholly or partially exempt from the  
7 classified service. A wholly or partially exempt position is filled  
8 by a person who serves at the pleasure of the appointing authority and  
9 whose term of employment is determined by the appointing authority.

10                           ARTICLE 6. MANAGER PLAN.

11           Sec. 29.20.460. MANAGER PLAN. A municipality may adopt a man-  
12 ager plan of government. Adoption of a manager plan may be initiated  
13 either by petition or by motion of the governing body. A petition for  
14 the adoption of a manager plan is submitted to the governing body.  
15 The petition must be signed by a number of voters equal to the follow-  
16 ing percentage of the votes cast at the preceding regular election:

17                           (1) 25 percent if the municipality has fewer than 7,500  
18 persons;

19                           (2) 15 percent if the municipality has 7,500 persons or  
20 more.

21           Sec. 29.20.470. ELECTION ON ADOPTION OF MANAGER PLAN. On re-  
22 ceipt of a petition to adopt a manager plan or on its own motion to  
23 adopt a manager plan, the governing body shall provide by ordinance or  
24 resolution for a vote on the question at the next election.

25           Sec. 29.20.480. ADOPTION OF MANAGER PLAN. (a) If a manager  
26 plan is approved, the governing body shall, within 60 days, adopt the  
27 plan by ordinance or resolution.

28           (b) The governing body shall notify the department of the  
29 adoption of a manager plan.

1           Sec. 29.20.490. APPOINTMENT OF MANAGER. (a) The governing body  
2 shall appoint a manager by a majority vote of its membership. A  
3 manager is chosen on the basis of administrative qualifications and  
4 receives the compensation set by the governing body. A member of the  
5 governing body may not be appointed manager of the municipality sooner  
6 than one year after leaving office, except by a vote of three-fourths  
7 of the authorized membership of the governing body.

8           (b) Subject to the contract of employment, the manager holds  
9 office at the pleasure of the governing body.

10           Sec. 29.20.500. POWERS AND DUTIES OF A MANAGER. The manager may  
11 hire necessary administrative assistants and may authorize an adminis-  
12 trative official to appoint, suspend, or remove subordinates. As  
13 chief administrator the manager shall

14           (1) appoint, suspend, or remove municipal employees and  
15 administrative officials, except as provided otherwise in this title  
16 and AS 14.14.065;

17           (2) supervise the enforcement of municipal law and carry  
18 out the directives of the governing body;

19           (3) prepare and submit an annual budget and capital im-  
20 provement program for consideration by the governing body, and execute  
21 the budget and capital improvement program adopted;

22           (4) make monthly financial reports and other reports on  
23 municipal finances and operations as required by the governing body;

24           (5) exercise custody over all real and personal property of  
25 the municipality, except property of the school district;

26           (6) perform other duties required by law or by the govern-  
27 ing body; and

28           (7) serve as personnel officer, unless the governing body  
29 authorizes the manager to appoint a personnel officer.

1           Sec. 29.20.510. INTERGOVERNMENTAL APPOINTMENT OF MANAGER. A  
2 borough adopting a manager plan may, on agreement with a city in the  
3 borough, provide that the manager of the city serve also as borough  
4 manager. A city adopting a manager plan may, on agreement with the  
5 borough in which it is located, provide that the manager of the bor-  
6 ough serve also as city manager. Appointment and service of the  
7 manager shall be as provided in AS 29.20.490 - 29.20.500. Nothing in  
8 this section affects the authority of the governing body to provide  
9 for other dual officeholding if the dual offices held are compatible,  
10 or otherwise to appoint officials and employees in accordance with  
11 law.

12           Sec. 29.20.520. REPEAL OF MANAGER PLAN. A municipality may  
13 repeal a manager plan in the same manner used for its adoption.  
14 Within 60 days after repeal of a manager plan, the governing body  
15 shall enact provisions for the reorganization of the municipal execu-  
16 tive and administrative functions.

17                           ARTICLE 7. MISCELLANEOUS PROVISIONS.

18           Sec. 29.20.600. OATHS OF OFFICE. Before taking office a munici-  
19 pal official shall affirm in writing that the duties of the office  
20 will be honestly, faithfully, and impartially performed by the offi-  
21 cial. The oath is filed with the municipal clerk.

22           Sec. 29.20.610. BONDING. The manager and the other municipal  
23 officials or employees that the governing body may designate shall  
24 give bond in the amount and with the surety prescribed by the govern-  
25 ing body. Premiums on bonds are paid by the municipality.

26           Sec. 29.20.620. COMPENSATION FOR ELECTED OFFICIALS. The govern-  
27 ing body shall by ordinance provide a method of determining the sal-  
28 aries of elected officials. The salary of the mayor may not be  
29 reduced during the term of office of the mayor, unless during the term

1 a manager plan is adopted. An elected official may not receive com-  
2 pensation for service to the municipality in addition to the salary  
3 received as an elected official, unless otherwise provided by ordi-  
4 nance. Per diem payments or reimbursements for expenses are not  
5 compensation under this section.

6 Sec. 29.20.630. PROHIBITIONS. (a) Subject to AS 14.14.140, a  
7 state employee or school district employee may not be denied the right  
8 to serve as an elected municipal official because of employment by the  
9 state or a school district. For purposes of this section a school  
10 district employee is not a municipal employee.

11 (b) This section applies to home rule and general law municipal-  
12 ities.

13 Sec. 29.20.640. REPORTS. (a) A municipality shall file with  
14 the department

15 (1) maps and descriptions of all annexed or detached ter-  
16 ritory;

17 (2) a copy of the annual audit, or, for a second class  
18 city, an audit or statement of annual income and expenditures;

19 (3) tax assessment and tax levy figures as requested;

20 (4) a copy of the current annual budget of the municipal-  
21 ity;

22 (5) a summary of the optional property tax exemptions  
23 authorized together with the estimate of the revenues lost to the  
24 municipality by operation of each of the exemptions.

25 (b) Compliance with the provisions of this section is a prereq-  
26 uisite to receipt of municipal tax resource equalization assistance  
27 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous municipi-  
28 pal services under AS 29.60.100 - 29.60.180. If a municipality does  
29 not comply with this section, the department shall withhold the allo-

1 cations until the required reports are filed.

2 (c) This section applies to home rule and general law municipal-  
3 ities.

4 \* Sec. 7. AS 29 is amended by adding a new chapter to read:

5 CHAPTER 25. MUNICIPAL ENACTMENTS.

6 Sec. 29.25.010. ACTS REQUIRED TO BE BY ORDINANCE. (a) In addi-  
7 tion to other actions that this title requires to be by ordinance, the  
8 governing body of a municipality shall use ordinances to

9 (1) establish, alter, or abolish municipal departments;

10 (2) provide for a fine or other penalty, or establish rules  
11 or regulations for violation of which a fine or other penalty is im-  
12 posed;

13 (3) provide for the levying of taxes;

14 (4) make appropriations, including supplemental appropria-  
15 tions or transfer of appropriations;

16 (5) grant, renew, or extend a franchise;

17 (6) adopt, modify, or repeal the comprehensive plan, land  
18 use and subdivision regulations, building and housing codes, and the  
19 official map;

20 (7) approve the transfer of a power to a first or second  
21 class borough from a city;

22 (8) designate the borough seat;

23 (9) provide for the retention or sale of tax-foreclosed  
24 property;

25 (10) exempt contractors from compliance with general re-  
26 quirements relating to payment and performance bonds in the con-  
27 struction or repair of municipal public works projects within the  
28 limitations set out in AS 36.25.025; this paragraph applies to home  
29 rule and general law municipalities.

1 (b) This section grants no authority but requires the governing  
2 body to use ordinances in exercising certain of its powers.

3 Sec. 29.25.020. ORDINANCE PROCEDURE. (a) An ordinance is  
4 introduced in writing in the form required by the governing body.

5 (b) The following procedure governs the enactment of all ordi-  
6 nances, except emergency ordinances:

7 (1) an ordinance may be introduced by a member or committee  
8 of the governing body, or by the mayor or manager;

9 (2) an ordinance shall be set by the governing body for a  
10 public hearing by the affirmative vote of a majority of the votes  
11 authorized on the question;

12 (3) at least five days before the public hearing a summary  
13 of the ordinance shall be published together with a notice of the time  
14 and place for the hearing;

15 (4) copies of the ordinance shall be available to all  
16 persons present at the hearing, or the ordinance shall be read in  
17 full;

18 (5) during the hearing the governing body shall hear all  
19 interested persons wishing to be heard;

20 (6) after the public hearing the governing body shall  
21 consider the ordinance, and may adopt it with or without amendment;

22 (7) the governing body shall print and make available  
23 copies of an ordinance that is adopted.

24 (c) An ordinance takes effect upon adoption or at a later date  
25 specified in the ordinance.

26 Sec. 29.25.030. EMERGENCY ORDINANCES. (a) To meet a public  
27 emergency the governing body may adopt an emergency ordinance effec-  
28 tive on adoption. Each emergency ordinance shall contain a finding by  
29 the governing body that an emergency exists and a statement of the

1 facts upon which the finding is based. An emergency ordinance may be  
2 adopted, amended and adopted, or rejected at the meeting at which it  
3 is introduced. The affirmative vote of all members present, or the  
4 affirmative vote of three-fourths of the total membership, whichever  
5 is less, is required for adoption of an emergency ordinance. The  
6 governing body shall print and make available copies of adopted emer-  
7 gency ordinances.

8 (b) An emergency ordinance may not be used to levy taxes, to  
9 grant, renew, or extend a franchise, or to regulate the rate charged  
10 by a public utility for its services.

11 (c) An emergency ordinance is effective for 60 days.

12 Sec. 29.25.040. CODES OF REGULATION. The governing body may in  
13 a single ordinance adopt or amend by reference provisions of a pub-  
14 lished code of municipal regulations. The procedure under AS 29.25.-  
15 020 applies to an ordinance adopted under this section, except that  
16 neither the ordinance or its amendments must be distributed to the  
17 public or read in full at the public hearing. For a period of 15 days  
18 before adoption of an ordinance under this section, at least five  
19 copies of the code of regulations shall be made available for public  
20 inspection at a time and place set out in the hearing notice. Only  
21 the ordinance must be printed after it is adopted under this section.  
22 The governing body shall provide for an adopted code of regulations to  
23 be made available to the public at no more than cost.

24 Sec. 29.25.050. CODIFICATION. (a) Each ordinance shall be  
25 codified after it is adopted.

26 (b) Within three years after incorporation of a municipality,  
27 the municipal clerk or the clerk's designee shall have prepared a  
28 general codification of all municipal ordinances of general  
29 applicability having the force and effect of law. The municipal code

1 shall be revised and printed at least every five years, unless the  
2 code is kept current by regular supplements.

3 (c) In (a) of this section, "codified" means

4 (1) the ordinance has been given a serial number or other  
5 permanent identifying number, and, bearing a notation of the date of  
6 adoption and the adopting authority, it has been entered by the munic-  
7 ipal clerk in a properly indexed book maintained for the purposes of  
8 organizing and recording the ordinances; or

9 (2) the ordinance is a provision that establishes a rule of  
10 conduct or behavior and that is included, or to be included, in a code  
11 of ordinances or other complete system of law enacted and kept current  
12 at reasonable intervals.

13 (d) This section applies to home rule and general law munici-  
14 palities.

15 Sec. 29.25.060. RESOLUTIONS. (a) The governing body shall  
16 provide for the maintenance of a permanent file of resolutions that  
17 have been adopted.

18 (b) This section applies to home rule and general law municipal-  
19 ities.

20 Sec. 29.25.070. PENALTIES. (a) For the violation of an ordi-  
21 nance, a municipality may by ordinance prescribe penalties not to  
22 exceed those imposed for a class B misdemeanor.

23 (b) The municipality or an aggrieved person may institute a  
24 civil action against a person who violates an ordinance. In addition  
25 to injunctive and compensatory relief, a civil penalty not to exceed  
26 \$1,000 may be imposed for each violation. An action to enjoin a  
27 violation may be brought notwithstanding the availability of any other  
28 remedy. On application for injunctive relief and a finding of a  
29 violation or a threatened violation, the superior court shall grant

1 the injunction. Each day that a violation of an ordinance continues  
2 constitutes a separate violation.

3 (c) The penalties authorized under this section may be imposed  
4 only if copies of the ordinance are made available for distribution to  
5 the public at no more than cost.

6 \* Sec. 8. AS 29 is amended by adding a new chapter to read:

7 CHAPTER 26. ELECTIONS.

8 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

9 Sec. 29.26.010. ADMINISTRATION. The governing body shall pre-  
10 scribe the rules for conducting an election and shall appoint an elec-  
11 tion board composed of at least three judges for each precinct. A  
12 judge shall be a voter of the precinct for which appointed unless no  
13 voter is willing to serve.

14 Sec. 29.26.020. NOMINATIONS. (a) Subject to other provisions  
15 of this title, the governing body shall provide by ordinance for  
16 nominations of elected officials by providing for declaration of  
17 candidacy or for petition requiring the signatures of not more than 10  
18 voters, or for both.

19 (b) A person may be nominated for and occupy more than one  
20 office, but may not serve simultaneously as borough mayor and as a  
21 member of the assembly or, in a first class city, as city mayor and as  
22 a member of the council.

23 Sec. 29.26.030. NOTICE OF ELECTIONS. (a) Subject to other pro-  
24 visions of this title, a municipality shall give at least 20 days  
25 notice of an election.

26 (b) This section applies to home rule and general law municipal-  
27 ities.

28 Sec. 29.26.040. DATE. The date of a regular election is the  
29 first Tuesday of October annually, unless a different date or interval

1 of years is provided by ordinance.

2 Sec. 29.26.050. VOTER QUALIFICATION. (a) A person may vote in  
3 a municipal election only if the person

4 (1) is a United States citizen who is qualified to vote in  
5 state elections;

6 (2) has been a resident of the municipality for 30 days  
7 immediately preceding the election;

8 (3) is registered to vote in state elections; and

9 (4) is not disqualified under art. V of the state constitu-  
10 tion.

11 (b) Voter registration by the municipality may not be required.  
12 However, a municipality may by ordinance require that a person be  
13 registered to vote in state elections in the precinct in which that  
14 person seeks to vote in municipal elections.

15 (c) This section applies to home rule and general law municipal-  
16 ities.

17 Sec. 29.26.060. RUNOFF ELECTIONS. (a) Unless otherwise pro-  
18 vided by ordinance, a runoff election shall be held if no candidate  
19 receives over 40 percent of the votes cast for the office of

20 (1) mayor; or

21 (2) member of the governing body or school board if candi-  
22 dates run for a designated seat.

23 (b) Unless otherwise provided by ordinance, if candidates for  
24 the governing body or school board run at large, a runoff election for  
25 a seat shall be held if no candidate receives a number of votes  
26 greater than 40 percent of the total votes cast for all candidates  
27 divided by the number of seats to be filled.

28 (c) Unless otherwise provided by ordinance, a runoff election  
29 shall be held within three weeks after the date of certification of

1 the election for which a runoff is required, and notice of the runoff  
2 election shall be published at least five days before the election  
3 date.

4 Sec. 29.26.070. ELECTION CONTEST AND APPEAL. (a) The governing  
5 body may provide by ordinance the time and procedure for the contest  
6 of an election.

7 (b) Unless otherwise provided by ordinance, an election may be  
8 contested only by a voter by filing a written affidavit with the  
9 municipal clerk specifying with particularity the grounds for the  
10 contest. An election may be contested before or during the first  
11 canvass of ballots by the governing body.

12 (c) Unless otherwise provided by ordinance, the governing body  
13 shall declare the election results at the first meeting to canvass the  
14 election, record the results in the minutes of that meeting, and  
15 authorize the results to be certified.

16 (d) A contestant shall pay all costs and expenses incurred in a  
17 recount of an election demanded by the contestant if the recount fails  
18 to reverse a result of the election, or the difference between the  
19 winning and losing vote on the result contested is more than two per-  
20 cent.

21 (e) A person may not appeal or seek judicial review of an elec-  
22 tion for any cause unless the person is a municipal voter, has ex-  
23 hausted all administrative remedies before the governing body, and has  
24 commenced, within 10 days after the governing body has declared the  
25 election results, an action in the superior court in the judicial  
26 district in which the municipality is located. If court action is not  
27 commenced within the 10-day period, the election and election results  
28 are conclusive and valid.

29 ARTICLE 2. INITIATIVE AND REFERENDUM.

1           Sec. 29.26.100. RESERVATION OF POWERS. The powers of initiative  
2 and referendum are reserved to the residents of municipalities, except  
3 the powers do not extend to matters restricted by art. XI, sec. 7 of  
4 the state constitution.

5           Sec. 29.26.110. APPLICATION FOR PETITION. (a) An initiative or  
6 referendum is proposed by filing an application with the municipal  
7 clerk containing the bill to be initiated or the act to be referred  
8 and the address to which all correspondence relating to the petition  
9 may be sent. An application shall be signed by at least 10 voters who  
10 will sponsor the petition. An additional sponsor may be added at any  
11 time before the petition is filed by submitting the name of the spon-  
12 sor to the clerk. Within two weeks the clerk shall certify the appli-  
13 cation if the clerk finds that it is in proper form and, for an ini-  
14 tiative petition, that the matter

15                   (1) is not restricted by AS 29.26.100;

16                   (2) includes only a single subject;

17                   (3) relates to a legislative rather than to an administra-  
18 tive matter; and

19                   (4) would be enforceable as a matter of law.

20           (b) A decision by the clerk on an application for petition is  
21 subject to judicial review.

22           Sec. 29.26.120. CONTENTS OF PETITION. (a) Within two weeks  
23 after certification of an application for an initiative or referendum  
24 petition, a petition shall be prepared by the municipal clerk. Each  
25 copy of the petition shall contain

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

28                   (2) the complete ordinance or resolution sought to be  
29 initiated or referred as submitted by the sponsors;

1 (3) the date on which the petition is issued by the clerk;  
2 (4) notice that signatures must be secured within 60 days  
3 after the date the petition is issued;

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

7 (6) a statement, with space for the sponsor's sworn signa-  
8 ture and date of signing, that the sponsor personally circulated the  
9 petition, that all signatures were affixed in the presence of the  
10 sponsor, and that the sponsor believes the signatures to be those of  
11 the persons whose names they purport to be; and

12 (7) space for indicating the total number of signatures on  
13 the petition.

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

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

19 Sec. 29.26.130. SIGNATURE REQUIREMENTS. (a) The signatures on  
20 an initiative or referendum petition shall be secured within 60 days  
21 after the clerk issues the petition. The statement provided under  
22 AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signa-  
23 tures shall be in ink or indelible pencil.

24 (b) The clerk shall determine the number of signatures required  
25 on a petition and inform each sponsor. A petition shall be signed by  
26 a number of voters based on the number of votes cast at the last  
27 regular election held before the date the petition was issued equal to

28 (1) 25 percent of the votes cast if a municipality has  
29 fewer than 7,500 persons; or

1                   (2) 15 percent of the votes cast if a municipality has  
2 7,500 persons or more.

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

6                   (d) A petition signer may withdraw the signer's signature on  
7 written application to the clerk before certification of the petition.

8                   Sec. 29.26.140. SUFFICIENCY OF PETITION. (a) All copies of an  
9 initiative or referendum petition shall be assembled and filed as a  
10 single instrument. Within 10 days after the date the petition is  
11 filed, the municipal clerk shall

12                   (1) certify on the petition whether it is sufficient; and

13                   (2) if the petition is insufficient, identify the insuffi-  
14 ciency and notify the sponsors at the address provided under AS 29.-  
15 26.110(a) by certified mail.

16                   (b) A petition that is insufficient may be supplemented with  
17 additional signatures obtained and filed within 10 days after the date  
18 on which the petition is rejected.

19                   (c) A petition that is insufficient shall be rejected and filed  
20 as a public record unless it is supplemented under (b) of this sec-  
21 tion. Within 10 days after a supplementary filing the clerk shall  
22 recertify the petition. If it is still insufficient, the petition is  
23 rejected and filed as a public record.

24                   Sec. 29.26.150. PROTEST. If the municipal clerk certifies an  
25 initiative or referendum petition is insufficient, a signer of the  
26 petition may file a protest with the mayor within seven days after the  
27 certification. The mayor shall present the protest at the next regu-  
28 lar meeting of the governing body. The governing body shall hear and  
29 decide the protest.

1           Sec. 29.26.160. NEW PETITION. Failure to secure sufficient  
2 signatures does not preclude the filing of a new initiative or refer-  
3 endum petition. However, a new petition on substantially the same  
4 matter may not be filed sooner than six months after a petition is  
5 rejected as insufficient.

6           Sec. 29.26.170. INITIATIVE ELECTION. (a) Unless substantially  
7 the same measure is adopted, when a petition seeks an initiative vote  
8 the clerk shall submit the matter to the voters at the next regular  
9 election occurring no sooner than 45 days after certification of the  
10 petition. If no regular election occurs within 75 days after the  
11 certification of a petition, the governing body shall hold a special  
12 election within 75 days, but not sooner than 45 days after certifica-  
13 tion.

14           (b) If the governing body adopts substantially the same measure,  
15 the petition is void and the matter initiated may not be placed before  
16 the voters.

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

20           (d) If a majority vote favors the ordinance or resolution, it  
21 becomes effective upon certification of the election, unless a diff-  
22 erent effective date is provided in the ordinance or resolution.

23           Sec. 29.26.180. REFERENDUM ELECTION. (a) Unless the ordinance  
24 or resolution is repealed, when a petition seeks a referendum vote the  
25 clerk shall submit the matter to the voters at the next election  
26 occurring no sooner than 45 days after certification of the petition.  
27 If no election occurs within 75 days of certification of a petition,  
28 the governing body shall hold a special election within 75 days, but  
29 not sooner than 45 days after certification.

1 (b) If a petition is certified before the effective date of the  
2 matter referred, the ordinance or resolution against which the peti-  
3 tion is filed shall be suspended pending the referendum vote. During  
4 the period of suspension, the governing body may not enact an ordi-  
5 nance or resolution substantially similar to the suspended measure.

6 (c) If the governing body repeals the ordinance or resolution  
7 before the referendum election, the petition is void and the matter  
8 referred shall not be placed before the voters.

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

13 Sec. 29.26.190. EFFECT. (a) An ordinance or resolution may not  
14 be repealed or amended within one year after its effective date if  
15 adopted in an initiative election or if adopted after a petition that  
16 contains substantially the same measure has been filed.

17 (b) If an ordinance or resolution is repealed in a referendum  
18 election or by the governing body after a petition that contains sub-  
19 stantially the same measure has been filed, substantially similar  
20 legislation may not be enacted by the governing body for a period of  
21 one year.

22 (c) If an initiative or referendum measure fails to receive  
23 voter approval, a new petition application for substantially the same  
24 measure may not be filed sooner than six months after the election  
25 results are certified.

26 ARTICLE 3. RECALL.

27 Sec. 29.26.240. RECALL. An official who is elected or appointed  
28 to an elective municipal office may be recalled by the voters after  
29 the official has served the first 120 days of the term for which

1 elected or appointed.

2 Sec. 29.26.250. GROUNDS FOR RECALL. Grounds for recall are mis-  
3 conduct in office, incompetence, or failure to perform prescribed  
4 duties.

5 Sec. 29.26.260. APPLICATION FOR RECALL PETITION. (a) An appli-  
6 cation for a recall petition shall be filed with the municipal clerk  
7 and shall contain

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

10 (2) the address to which all correspondence relating to the  
11 petition may be sent;

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

14 (b) An additional sponsor may be added at any time before the  
15 petition is filed by submitting the name of the sponsor to the clerk.

16 Sec. 29.26.270. RECALL PETITION. (a) If the municipal clerk  
17 determines that an application for a recall petition meets the re-  
18 quirements of AS 29.26.260, the clerk shall prepare a recall petition.  
19 All copies of the petition shall contain

20 (1) the name of the official sought to be recalled;

21 (2) the statement of the grounds for recall as set out in  
22 the application for petition;

23 (3) the date the petition is issued by the clerk;

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

26 (5) spaces for each signature, the printed name of each  
27 signer, the date of each signature, and the residence and mailing  
28 addresses of each signer;

29 (6) a statement, with space for the sponsor's sworn signa-

1 ture and date of signing, that the sponsor personally circulated the  
2 petition, that all signatures were affixed in the presence of the  
3 sponsor, and that the sponsor believes the signatures to be those of  
4 the persons whose names they purport to be; and

5 (7) space for indicating the number of signatures on the  
6 petition.

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

9 Sec. 29.26.280. SIGNATURE REQUIREMENTS. (a) The signatures on  
10 a recall petition shall be secured within 60 days after the date the  
11 clerk issues the petition. The statement provided under AS 29.26.-  
12 270(a)(6) shall be completed and signed by the sponsor. Signatures  
13 shall be in ink or indelible pencil.

14 (b) The clerk shall determine the number of signatures required  
15 on a petition and inform each sponsor. If a petition seeks to recall  
16 an official who represents the municipality at large, the petition  
17 shall be signed by a number of voters equal to 25 percent of the  
18 number of votes cast for that office at the last regular election held  
19 before the date the petition was issued. If a petition seeks to  
20 recall an official who represents a district, the petition shall be  
21 signed by a number of the voters residing in the district equal to 25  
22 percent of the number of votes cast in the district for that office at  
23 the last regular election held before the date the petition was is-  
24 sued.

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

28 (d) A petition signer may withdraw the signer's signature upon  
29 written application to the clerk before certification of the petition.

1           Sec. 29.26.290. SUFFICIENCY OF PETITION. (a) The copies of a  
2 recall petition shall be assembled and filed as a single instrument.  
3 A petition may not be filed within 180 days before the end of the term  
4 of office of the official sought to be recalled. Within 10 days after  
5 the date a petition is filed, the municipal clerk shall

6           (1) certify on the petition whether it is sufficient; and

7           (2) if the petition is insufficient, identify the insuffi-  
8 ciency and notify the sponsors at the address provided under AS 29.-  
9 26.260(a)(2) by certified mail.

10          (b) A petition that is insufficient may be supplemented with  
11 additional signatures obtained and filed within 10 days after the date  
12 on which the petition is rejected if

13          (1) the petition contains an adequate number of signatures,  
14 counting both valid and invalid signatures; and

15          (2) the supplementary petition is filed more than 180 days  
16 before the end of the term of office of the official sought to be re-  
17 called.

18          (c) A petition that is insufficient shall be rejected and filed  
19 as a public record unless it is supplemented under (b) of this sec-  
20 tion. Within 10 days after the supplementary filing the clerk shall  
21 recertify the petition. If it is still insufficient, the petition is  
22 rejected and filed as a public record.

23          Sec. 29.26.300. NEW RECALL PETITION APPLICATION. A new applica-  
24 tion for a petition to recall the same official may not be filed  
25 sooner than six months after a petition is rejected as insufficient.

26          Sec. 29.26.310. SUBMISSION. If a recall petition is sufficient,  
27 the clerk shall submit it to the governing body at the next regular  
28 meeting or at a special meeting held before the next regular meeting.

29          Sec. 29.26.320. ELECTION. (a) If a regular election occurs

1 within 75 days but not sooner than 45 days after submission of the  
2 petition to the governing body, the governing body shall submit the  
3 recall at that election.

4 (b) If no regular election occurs within 75 days, the governing  
5 body shall hold a special election on the recall question within 75  
6 days but not sooner than 45 days after a petition is submitted to the  
7 governing body.

8 (c) If a vacancy occurs in the office after a sufficient recall  
9 petition is filed with the clerk, the recall question may not be sub-  
10 mitted to the voters. The governing body may not appoint to the same  
11 office an official who resigns after a sufficient recall petition is  
12 filed naming him.

13 Sec. 29.26.330. FORM OF RECALL BALLOT. A recall ballot shall  
14 contain

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

17 (2) a statement by the official named on the recall peti-  
18 tion of 200 words or less, if the statement is filed with the clerk  
19 for publication and public inspection within 20 days before the elec-  
20 tion;

21 (3) the following question: "Shall (name of person) be  
22 recalled from the office of (office)? Yes [ ] No [ ]".

23 Sec. 29.26.340. EFFECT. (a) If a majority vote favors recall,  
24 the office becomes vacant upon certification of the recall election.

25 (b) If an official is not recalled at the election, an applica-  
26 tion for a petition to recall the same official may not be filed  
27 sooner than six months after the election.

28 Sec. 29.26.350. SUCCESSORS. (a) If an official is recalled  
29 from the governing body, the office of that official is filled in

1 accordance with AS 29.20.180. If all members of the governing body  
2 are recalled, the governor shall appoint three qualified persons to  
3 the governing body. The appointees shall appoint additional members  
4 to fill remaining vacancies in accordance with AS 29.20.180.

5 (b) If a member of the school board is recalled, the office of  
6 that member is filled in accordance with AS 14.12.070. If all members  
7 are recalled from a school board, the governor shall appoint three  
8 qualified persons to the school board. The appointees shall appoint  
9 additional members to fill remaining vacancies in accordance with  
10 AS 14.12.070.

11 (c) A person appointed under (a) or (b) of this section serves  
12 until a successor is elected and takes office.

13 (d) If an official other than a member of the governing body or  
14 school board is recalled, a successor shall be elected to fill the  
15 unexpired portion of the term. The election shall be held not more  
16 than 60 days after the date the recall election is certified, except  
17 that if a regular election occurs within 75 days after certification  
18 the successor shall be chosen at that election.

19 (e) Nominations for a successor may be filed until seven days  
20 before the last date on which a first notice of the election must be  
21 given. Nominations may not be filed before the certification of the  
22 recall election.

23 Sec. 29.26.360. APPLICATION. AS 29.26.240 - 29.26.360 apply to  
24 home rule and general law municipalities.

25 \* Sec. 9. AS 29 is amended by adding a new chapter to read:

26 CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

27 ARTICLE 1. GENERAL POWERS.

28 Sec. 29.35.010. GENERAL POWERS. All municipalities have the  
29 following general powers, subject to other provisions of law:

- 1           (1) to establish and prescribe a salary for an elected or  
2 appointed municipal official or employee;
- 3           (2) to combine two or more appointive or administrative  
4 offices;
- 5           (3) to establish and prescribe the functions of a municipal  
6 department, office, or agency;
- 7           (4) to require periodic and special reports from a municipi-  
8 pal department to be submitted through the mayor;
- 9           (5) to investigate an affair of the municipality and make  
10 inquiries into the conduct of a municipal department;
- 11           (6) to levy a tax or special assessment, and impose a lien  
12 for its enforcement;
- 13           (7) to enforce an ordinance and to prescribe a penalty for  
14 violation of an ordinance;
- 15           (8) to acquire, manage, control, use, and dispose of real  
16 and personal property, whether the property is situated inside or  
17 outside the municipal boundaries; this power includes the power of a  
18 borough to expend, for any purpose authorized by law, money received  
19 from the disposal of land in a service area established under AS 29.-  
20 35.450;
- 21           (9) to expend money for a community purpose, facility, or  
22 service for the good of the municipality to the extent the municipali-  
23 ty is otherwise authorized by law to exercise the power necessary to  
24 accomplish the purpose or provide the facility or service;
- 25           (10) to regulate the operation and use of a municipal right-  
26 of-way, facility, or service;
- 27           (11) to borrow money and issue evidences of indebtedness;
- 28           (12) to acquire membership in an organization that promotes  
29 legislation for the good of the municipality;

1 (13) to enter into an agreement, including an agreement for  
2 cooperative or joint administration of any function or power with a  
3 municipality, the state, or the United States;

4 (14) to sue and be sued.

5 Sec. 29.35.020. EXTRATERRITORIAL JURISDICTION. (a) To the  
6 extent a municipality is otherwise authorized by law to exercise the  
7 power necessary to provide the facility or service, the municipality  
8 may provide parks, playgrounds, cemeteries, emergency medical ser-  
9 vices, solid and septic waste disposal, utility services, airports,  
10 streets (including ice roads), trails, transportation facilities,  
11 wharves, harbors and other marine facilities outside its boundaries  
12 and may regulate their use and operation to the extent that the juris-  
13 isdiction in which they are located does not regulate them. A regu-  
14 lation adopted under this section must state that it applies outside  
15 the municipality.

16 (b) A municipality may adopt an ordinance to protect its water  
17 supply and watershed, and may enforce the ordinance outside its bound-  
18 aries. Before this power may be exercised inside the boundaries of  
19 another municipality, the approval of the other municipality must be  
20 given by ordinance.

21 (c) This section applies to home rule and general law municipal-  
22 ities.

23 Sec. 29.35.030. EMINENT DOMAIN. (a) A municipality may exer-  
24 cise the powers of eminent domain and declaration of taking in the  
25 performance of a power or function of the municipality under the  
26 procedures set out in AS 09.55.250 - 09.55.460.

27 (b) This section applies to home rule and general law municipal-  
28 ities.

29 Sec. 29.35.040. EMERGENCY DISASTER POWERS. (a) A municipality

1 that is wholly or partially in an area that is declared by the Presi-  
2 dent or governor to be a disaster area may participate in and provide  
3 for housing, urban renewal, and redevelopment in the same manner as a  
4 home rule city. The exercise of these powers by a borough shall be on  
5 a nonareawide basis, except a borough may exercise the powers trans-  
6 ferred to it by a city as provided by AS 29.35.310.

7 (b) Powers granted by this section must be initiated within a  
8 period of not more than five years after the date of declaration of a  
9 natural disaster by the President or governor, but these powers may be  
10 extended for an additional period of not more than three years.

11 Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES. (a) A muni-  
12 cipality may by ordinance

13 (1) provide for the establishment, maintenance, and opera-  
14 tion of a system of garbage and solid waste collection and disposal  
15 for the entire municipality, or for districts or portions of it;

16 (2) require all persons in the municipality or district to  
17 use the system and to dispose of their garbage and solid wastes as  
18 provided in the ordinance;

19 (3) award contracts for collection and disposal, or provide  
20 for the collection and disposal of garbage and solid waste by munici-  
21 pal officials and employees;

22 (4) pay for garbage and solid waste collection and disposal  
23 from available money;

24 (5) require property owners or occupants of premises to use  
25 the garbage and solid waste collection and disposal system provided by  
26 the municipality;

27 (6) fix charges against the property owners or occupants of  
28 premises for the collection and disposal; and

29 (7) provide penalties for violations of the ordinances.

1 (b) The governing body of a municipality may not prohibit a  
2 person holding a valid certificate from the Alaska Public Utilities  
3 Commission from continuing to collect and dispose of garbage, refuse,  
4 trash, waste material, or provide other related services in an area in  
5 the municipality if the certificate authorizes the collection and  
6 disposal of garbage, refuse, trash, or other waste material and pro-  
7 viding of other services in the area, and the certificate was orig-  
8 inally issued before the municipality provided similar services. A  
9 municipality may not provide for a garbage, refuse, trash, or other  
10 waste material collection and disposal service in an area to the  
11 extent it lies in an area granted to a garbage, refuse, trash, or  
12 other waste material carrier by a certificate issued by the Alaska  
13 Public Utilities Commission to the carrier until it has purchased the  
14 certificate, equipment and facilities of the carrier, or that portion  
15 of the certificate that would be affected, at fair market value. A  
16 municipality may exercise the right of eminent domain to determine  
17 fair market value.

18 (c) This section applies to home rule and general law municipal-  
19 ities.

20 Sec. 29.35.060. FRANCHISES AND PERMITS. (a) The assembly  
21 acting for the area outside all cities in the borough and the council  
22 acting for the area in a city may grant franchises, including exclu-  
23 sive franchise privileges, to a person, corporation, organization, or  
24 utility not certificated by the Alaska Public Utilities Commission and  
25 may permit the use of streets and other public places by the franchise  
26 holder under regulations prescribed by ordinance.

27 (b) Unless the grant is made on a competitive basis, the grant  
28 of an exclusive right to use a public street or right-of-way for more  
29 than five years to a utility or a transportation system not certif-

1       icated by the Alaska Public Utilities Commission or by the Alaska  
2       Transportation Commission shall be valid only if approved by a major-  
3       ity of the voters at an election.

4               Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for  
5       the area outside all cities in the borough and the council acting for  
6       the area in a city may regulate, fix, establish, and change the rates  
7       and charges imposed for a utility service provided to the municipality  
8       or its inhabitants by a utility to the extent

9                       (1) that it is not subject to regulation under AS 42.05;  
10       and

11                      (2) not otherwise prohibited by law.

12               (b) A municipality may provide for a reasonable deposit for  
13       meters and service to be given if interest is paid on the deposit.

14               (c) Unless the utility is owned by the municipality, all rates,  
15       charges, and regulations established under this section shall be  
16       established by ordinance and shall be reasonable and permit a fair  
17       return on invested capital.

18               (d) This section applies to home rule and general law municipal-  
19       ities.

20               Sec. 29.35.080. ALCOHOLIC BEVERAGES. (a) A municipality may  
21       regulate the barter, sale, importation, and consumption of alcoholic  
22       beverages in accordance with AS 04.11.480 - 04.11.506 and AS 04.21.-  
23       010.

24               (b) This section applies to home rule and general law munici-  
25       palities.

26               Sec. 29.35.090. MUNICIPAL PROPERTY. The governing body shall by  
27       ordinance establish a formal procedure for acquisition and disposal of  
28       land and interests in land by the municipality.

29               Sec. 29.35.100. BUDGET AND CAPITAL PROGRAM. (a) The governing

1 body shall establish the manner for the preparation and submission of  
2 the budget and capital program. After a public hearing, the governing  
3 body may approve the budget with or without amendments, and shall  
4 appropriate the money required for the approved budget.

5 (b) The governing body may make supplemental and emergency  
6 appropriations. Payment may not be authorized or made and an obliga-  
7 tion may not be incurred except in accordance with appropriations.

8 Sec. 29.35.110. EXPENDITURE OF BOROUGH REVENUES. Borough reve-  
9 nues received through taxes collected on an areawide basis by the  
10 borough may be expended on general administrative costs and on area-  
11 wide functions only. Borough revenues received through taxes col-  
12 lected on a nonareawide basis may be expended on general administra-  
13 tive costs and functions that render service only to the area outside  
14 all cities in the borough.

15 Sec. 29.35.120. POST AUDIT. (a) The governing body shall  
16 provide for an annual independent audit of the accounts and financial  
17 transactions of the municipality or, in the case of a second class  
18 city, an audit or statement of annual income and expenditures. To  
19 make the audit the governing body shall designate a public accountant  
20 who has no personal interest, direct or indirect, in the fiscal  
21 affairs of the municipality. Copies of the audit shall be available  
22 to the public upon request.

23 (b) This section applies to home rule and general law municipal-  
24 ities.

25 Sec. 29.35.130. EMERGENCY SERVICES COMMUNICATIONS CENTERS. (a)  
26 A municipality may establish an emergency services communications  
27 center with one or more other municipalities and one or more state,  
28 federal, or private agencies that provide emergency service  
29 communications to the same geographic area. An emergency services

1 communications center established under this section may be organized  
2 and operated as a public nonprofit corporation under AS 10.20.

3 (b) An emergency services communications center under this  
4 section may be governed by a board of directors. A member of a board  
5 of directors of an emergency services communications center serves  
6 without compensation but is entitled to per diem and travel expenses.  
7 If an emergency services communications center is organized as a  
8 nonprofit corporation, a member of its board of directors may not be  
9 employed by the nonprofit corporation.

10 (c) An emergency services communications center may assess the  
11 feasibility and desirability of providing emergency services communi-  
12 cations for the geographic area in which it is located through one  
13 central office. An emergency services communications center may

14 (1) combine or coordinate the existing emergency services  
15 communications programs of the participating municipalities and agen-  
16 cies;

17 (2) operate a dispatch center to receive all requests for  
18 emergency services and dispatch those services;

19 (3) study the need for improvement in the timely delivery  
20 of emergency services to residents of the participating municipali-  
21 ties;

22 (4) hold public hearings to obtain information concerning  
23 the timely delivery of emergency services;

24 (5) apply for and accept federal, state, municipal, and  
25 private money, property, or assistance for use in providing the timely  
26 delivery of emergency services;

27 (6) enter into contracts to carry out the provisions of  
28 this section;

29 (7) employ personnel necessary to carry out the provisions

1 of this section.

2 (d) In this section

3 (1) "emergency services" means services provided by law  
4 enforcement agencies, fire departments, ambulance services, and other  
5 organizations that are intended to respond to emergency situations of  
6 imminent danger to life or property;

7 (2) "state agency" means a department, division, or office  
8 in the executive branch of state government.

9 ARTICLE 2. MANDATORY AREAWIDE POWERS.

10 Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. (a) A borough shall  
11 exercise the powers as specified and in the manner specified in  
12 AS 29.35.150 - 29.35.180 on an areawide basis.

13 (b) A city may not exercise an areawide power once that power is  
14 being exercised by a borough. This subsection applies to home rule  
15 and general law municipalities.

16 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a  
17 borough school district and establishes, maintains, and operates a  
18 system of public schools on an areawide basis as provided in AS 14.-  
19 14.060. A military reservation in a borough is not part of the bor-  
20 ough school district until the military mission is terminated or until  
21 inclusion in the borough school district is approved by the Department  
22 of Education. However, operation of the military reservation schools  
23 by the borough school district may be required by the Department of  
24 Education under AS 14.14.110. If the military mission of a military  
25 reservation terminates or continued management and control by a re-  
26 gional educational attendance area is disapproved by the Department of  
27 Education, operation, management, and control of schools on the mili-  
28 tary reservation transfers to the borough school district in which the  
29 military reservation is located.

1 (b) This section applies to home rule and general law municipal-  
2 ities.

3 Sec. 29.35.170. ASSESSMENT AND COLLECTION OF TAXES. (a) A  
4 borough shall assess and collect property, sales, and use taxes that  
5 are levied in its boundaries, subject to AS 29.45.

6 (b) Taxes levied by a city shall be collected by a borough and  
7 returned in full to the levying city. This subsection applies to home  
8 rule and general law municipalities.

9 Sec. 29.35.180. LAND USE REGULATION. (a) A first or second  
10 class borough shall provide for planning, platting, and land use  
11 regulation in accordance with AS 29.40.

12 (b) A home rule borough shall provide for planning, platting,  
13 and land use regulation.

14 ARTICLE 3. ADDITIONAL POWERS.

15 Sec. 29.35.200. FIRST CLASS BOROUGH POWERS. (a) A first class  
16 borough may exercise by ordinance on a nonareawide basis any power not  
17 otherwise prohibited by law.

18 (b) A first class borough may by ordinance exercise the follow-  
19 ing powers on an areawide basis:

- 20 (1) provide transportation systems;  
21 (2) provide water pollution control;  
22 (3) provide air pollution control in accordance with  
23 AS 46.03.140 - 46.03.240;  
24 (4) license day care facilities;  
25 (5) license, impound, and dispose of animals.

26 (c) In addition to powers conferred by (b) of this section, a  
27 first class borough may, on an areawide basis, exercise a power not  
28 otherwise prohibited by law if the power has been acquired in  
29 accordance with AS 29.35.300.

1           Sec. 29.35.210. SECOND CLASS BOROUGH POWERS. (a) A second  
2 class borough may by ordinance exercise the following powers on a  
3 nonareawide basis:

4           (1) provide transportation systems;

5           (2) regulate the offering for sale, exposure for sale,  
6 sale, use or explosion of fireworks;

7           (3) license, impound, and dispose of animals;

8           (4) provide garbage, solid waste, and septic waste col-  
9 lection and disposal;

10           (5) provide air pollution control in accordance with  
11 AS 46.03.140 - 46.03.240;

12           (6) provide water pollution control;

13           (7) participate in federal or state loan programs for  
14 housing rehabilitation and improvement for energy conservation;

15           (8) provide for economic development;

16           (9) provide for the acquisition and construction of local  
17 service roads and trails under AS 19.30.111 - 19.30.251;

18           (10) establish an emergency communications center.

19           (b) A second class borough may by ordinance exercise the follow-  
20 ing powers on an areawide basis:

21           (1) provide transportation systems;

22           (2) license, impound, and dispose of animals;

23           (3) provide air pollution control in accordance with  
24 AS 46.03.140 - 46.03.240;

25           (4) provide water pollution control;

26           (5) license day care facilities.

27           (c) In addition to powers conferred by (a) of this section, a  
28 second class borough may, on a nonareawide basis, exercise a power not  
29 otherwise prohibited by law if the exercise of the power has been

1 approved at an election by a majority of voters living in the borough  
2 but outside all cities in the borough.

3 (d) In addition to powers conferred by (b) of this section, a  
4 second class borough may, on an areawide basis, exercise a power not  
5 otherwise prohibited by law if the power has been acquired in accor-  
6 dance with AS 29.35.300.

7 Sec. 29.35.220. THIRD CLASS BOROUGH POWERS. (a) A third class  
8 borough may borrow money and issue negotiable or nonnegotiable bonds  
9 or other evidences of indebtedness as provided by AS 29.47.

10 (b) Areawide exercise of a power by a third class borough other  
11 than education and tax assessment and collection is not authorized.

12 (c) A third class borough may acquire under AS 29.35.300(b) the  
13 power to provide for planning, platting, and land use regulation as  
14 provided in AS 29.40 for first and second class boroughs, except the  
15 power may only be exercised within a service area.

16 (d) A third class borough may acquire under AS 29.35.300(b) any  
17 power not otherwise prohibited by law, except the power may only be  
18 exercised within a service area.

19 ARTICLE 4. CITY POWERS.

20 Sec. 29.35.250. CITIES INSIDE BOROUGHES. (a) A city inside a  
21 borough may exercise any power not otherwise prohibited by law.

22 (b) On adoption of a borough ordinance to provide for areawide  
23 exercise of a power, no city may exercise the power unless the borough  
24 ordinance provides otherwise or the borough by ordinance ceases to  
25 exercise the power.

26 (c) A home rule city in a third class borough shall provide for  
27 planning, platting, and land use regulation as provided by AS 29.35.-  
28 180(b) for home rule boroughs. A first class city in a third class  
29 borough shall provide for planning, platting, and land use regulation

1 as provided by AS 29.35.180(a) for first and second class boroughs. A  
2 second class city in a third class borough may provide for planning,  
3 platting, and land use regulation as provided by AS 29.35.180(a) for  
4 first and second class boroughs.

5 (d) This section applies to home rule and general law cities.

6 Sec. 29.35.260. CITIES OUTSIDE BOROUGHES. (a) A city outside a  
7 borough may exercise a power not otherwise prohibited by law. A  
8 provision that is incorporated by reference to laws governing boroughs  
9 applies to home rule cities outside boroughs only if the provision is  
10 made applicable to home rule boroughs.

11 (b) A home rule or first class city outside a borough is a city  
12 school district and shall establish, operate, and maintain a system of  
13 public schools as provided by AS 29.35.160 for boroughs. A second  
14 class city outside a borough is not a school district and may not  
15 establish a system of public schools.

16 (c) A home rule city outside a borough shall provide for plan-  
17 ning, platting, and land use regulation as provided by AS 29.35.180(b)  
18 for home rule boroughs. A first class city outside a borough shall,  
19 and a second class city outside a borough may, provide for planning,  
20 platting, and land use regulation as provided by AS 29.35.180(a) for  
21 first and second class boroughs.

22 (d) This section applies to home rule and general law cities.

23 ARTICLE 5. ACQUISITION OF ADDITIONAL POWERS.

24 Sec. 29.35.300. ADDITIONAL POWERS. (a) A first class borough  
25 acquires an additional areawide power by transfer of the power by a  
26 city or by holding an areawide election on the question.

27 (b) A second class borough acquires an additional power by  
28 transfer of the power by a city or by holding an election on the  
29 question. For acquisition of an areawide power, the election shall be

1 held areawide. For acquisition of a nonareawide power, the election  
2 shall be held nonareawide.

3 (c) A third class borough acquires an additional power to exer-  
4 cise in service areas by holding an election on the question in which  
5 each person who is a voter of the borough may vote.

6 Sec. 29.35.310. TRANSFER BY CITY. (a) A city in a first or  
7 second class borough may transfer to the borough in which it is lo-  
8 cated any of its powers or functions, subject to the approval of the  
9 assembly.

10 (b) A first or second class borough shall exercise all powers  
11 transferred to it by a city.

12 Sec. 29.35.320. INITIATION OF ACQUISITION OF POWER. (a) An  
13 election on the question of adding an areawide power in a first class  
14 borough or of adding an areawide or nonareawide power in a second  
15 class borough may be initiated in two ways:

16 (1) a number of voters equal to 15 percent of the number of  
17 votes cast at the preceding regular election in the area, either area-  
18 wide or nonareawide, in which the election is to be held may file a  
19 petition with the borough clerk; or

20 (2) the assembly may propose the acquisition of the power.

21 (b) An election on the question of adding a power in a third  
22 class borough for exercise in service areas may be initiated in two  
23 ways:

24 (1) a number of voters equal to 15 percent of the number of  
25 votes cast at the preceding regular election in a proposed service  
26 area in which the power is sought to be exercised may file a petition  
27 with the assembly; or

28 (2) the assembly may propose the acquisition of the power.

29 (c) The borough clerk shall certify whether a petition filed

1 under (a) or (b) of this section contains the required number of  
2 signatures.

3 (d) Within 30 days after a petition is certified as containing  
4 the required number of signatures or the assembly proposes the acqui-  
5 sition of a power, at least one public hearing shall be held in the  
6 borough on the question. The assembly shall then evaluate the ability  
7 of the borough to exercise the power and make its findings public.  
8 Within 60 days after its findings have been made public, the assembly  
9 shall order an election on the question.

10 Sec. 29.35.330. ELECTION. (a) If more than one power is pro-  
11 posed for acquisition under AS 29.35.320, each shall appear separately  
12 on the ballot.

13 (b) A vote on the question of adding an areawide power in a  
14 first or second class borough shall be tabulated in two separate  
15 classifications. One shall consist of all votes cast in all cities  
16 located in the borough. The other shall consist of all votes cast in  
17 the borough area outside all cities. If the majority of the votes  
18 cast in each classification is favorable, the borough shall assume the  
19 added power within 30 days after certification of the election re-  
20 sults.

21 (c) If a majority of the votes cast on the question of adding a  
22 nonareawide power in a first or second class borough or a power to be  
23 exercised in service areas in a third class borough is favorable, the  
24 borough shall assume the added power within 30 days after certifica-  
25 tion of the election results.

26 (d) The borough mayor shall certify the election results to the  
27 department.

28 Sec. 29.35.340. EFFECT OF ACQUIRING AN AREAWIDE POWER. (a) On  
29 acquisition of an areawide power the first or second class borough

1 succeeds to all of the rights, powers, and duties of any city or  
2 service area with respect to that power. The borough succeeds to  
3 claims, franchises, and other contractual obligations, liability for  
4 bonded and all other indebtedness, and to all of the right, title, and  
5 interest in the real and personal property held by a city or service  
6 area for the exercise of the power.

7 (b) The assembly may levy and collect special charges, taxes, or  
8 assessments including interest for the purpose of amortizing bonded  
9 indebtedness previously incurred by a city or service area for exer-  
10 cising an areawide power acquired by the borough. When a city or  
11 service area had previously incurred bonded indebtedness, all property  
12 that was in the city or service area at the time the bonds were issued  
13 remains subject to taxation to pay the principal of and interest on  
14 the bonds.

15 (c) On acquisition of an additional areawide power the first or  
16 second class borough, in consultation with the city or service area  
17 personnel, shall arrange for an orderly and equitable transfer of  
18 rights, assets, liabilities, powers, duties, and other matters related  
19 to acquisition of the areawide powers.

20 (d) This section applies to home rule and general law cities.

#### 21 ARTICLE 6. CONSTRUCTION OF POWERS.

22 Sec. 29.35.400. GENERAL CONSTRUCTION. A liberal construction  
23 shall be given to all powers and functions of a municipality conferred  
24 in this title.

25 Sec. 29.35.410. EXTENT OF POWERS. Unless otherwise limited by  
26 law, a municipality has and may exercise all powers and functions  
27 necessarily or fairly implied in or incident to the purpose of all  
28 powers and functions conferred in this title.

29 Sec. 29.35.420. ENUMERATION OF POWERS. Specific examples in an

1 enumerated power or function conferred upon a municipality in this  
2 title is illustrative of the object and not a limitation on or exclu-  
3 sion from the exercise of the power or function.

4 ARTICLE 7. SERVICE AREAS.

5 Sec. 29.35.450. SERVICE AREAS. (a) A service area to provide  
6 special services in a borough may be established, operated, altered,  
7 or abolished by ordinance. Special services include services not  
8 provided on an areawide or nonareawide basis in the borough, or a  
9 higher or different level of service than that provided on an areawide  
10 or nonareawide basis. The borough may include a city in a service  
11 area if

12 (1) the city agrees by ordinance; or

13 (2) approval is granted by a majority of voters residing in  
14 the city, and by a majority of voters residing inside the boundaries  
15 of the proposed service area but outside of the city.

16 (b) A new service area may not be established if, consistent  
17 with the purposes of art. X of the state constitution, the new service  
18 can be provided by an existing service area, by annexation to a city,  
19 or by incorporation as a city.

20 Sec. 29.35.460. SERVICE AREA BOARDS. The assembly may provide  
21 for an appointed or elected board to supervise the furnishing of  
22 special services in a service area.

23 Sec. 29.35.470. FINANCING. The assembly may levy or authorize  
24 the levying of taxes, charges, or assessments in a service area to  
25 finance the special services. If the assembly authorizes the levying  
26 of taxes, charges, or assessments, the rate of taxation and the issu-  
27 ance of bonds are subject to assembly approval.

28 Sec. 29.35.480. SERVICE AREAS IN FIRST CLASS BOROUGHES. In a  
29 first class borough, the assembly may exercise in a service area any

1 power granted a first class city by law. The assembly may exercise in  
2 a service area any nonareawide power that may be exercised by a first  
3 class borough.

4 Sec. 29.35.49. SERVICE AREAS IN SECOND AND THIRD CLASS BOR-  
5 OUGHS. (a) A second class borough may exercise in a service area any  
6 power granted a first class city by law or a nonareawide power that  
7 may be exercised by a first class borough if

8 (1) the exercise of the power is approved by a majority of  
9 the voters residing in the service area; or

10 (2) all owners of real property in the service area consent  
11 in writing to the exercise of the power if no voters reside in the  
12 service area.

13 (b) If the exercise of the power is approved by a majority of  
14 the voters residing in the service area, a third class borough may  
15 exercise in a service area any power that may be acquired by a second  
16 class borough under AS 29.35.300(b).

17 (c) A second or third class borough may establish a service area  
18 that includes only vacant, unappropriated, and unreserved land owned  
19 by the borough. A second or third class borough may establish a  
20 service area, with the concurrence of the commissioner of natural  
21 resources, that includes only vacant, unappropriated, and unreserved  
22 land owned by the state and classified for disposal to individuals.  
23 By ordinance a second or third class borough may provide the services  
24 in a service area established under this subsection necessary to  
25 develop state or municipal land as required by the planning, platting,  
26 and land use regulations of the borough.

27 ARTICLE 8. MISCELLANEOUS PROVISIONS.

28 Sec. 29.35.700. DEFINITION. In AS 29.35.200 - 29.35.340 "power"  
29 means the provision of a public facility or service, or the exercise

1 of a regulatory power.

2 \* Sec. 10. AS 29 is amended by adding a new chapter to read:

3 CHAPTER 40. PLANNING, PLATTING, AND LAND USE REGULATION.

4 Sec. 29.40.010. PLANNING, PLATTING, AND LAND USE REGULATION.

5 (a) A first or second class borough shall provide for planning,  
6 platting, and land use regulation on an areawide basis.

7 (b) If a city in a borough consents by ordinance, the assembly  
8 may by ordinance delegate any of its powers and duties under this  
9 chapter to the city. The assembly may by ordinance, without first  
10 obtaining the consent of the city, revoke any power or duty delegated  
11 under this section.

12 Sec. 29.40.020. PLANNING COMMISSION. (a) Each first and second  
13 class borough shall establish a planning commission consisting of five  
14 residents unless a greater number is required by ordinance. Commis-  
15 sion membership shall be apportioned so that the number of members  
16 from home rule and first class cities reflects the proportion of  
17 borough population residing in home rule and first class cities lo-  
18 cated in the borough. A member shall be appointed by the borough  
19 mayor for a term of three years subject to confirmation by the assem-  
20 bly, except that a member from a home rule or first class city shall  
21 be selected from a list of recommendations submitted by the council.  
22 Members first appointed shall draw lots for one, two, and three year  
23 terms. Appointments to fill vacancies are for the unexpired term.  
24 The compensation and expenses of the planning commission and its staff  
25 are paid as directed by the assembly.

26 (b) In addition to the duties prescribed by ordinance, the plan-  
27 ning commission shall

28 (1) prepare and submit to the assembly a proposed  
29 comprehensive plan in accordance with AS 29.40.030 for the systematic

1 and organized development of the borough;

2 (2) review, recommend, and administer measures necessary to  
3 implement the comprehensive plan, including measures provided under  
4 AS 29.40.040.

5 Sec. 29.40.030. COMPREHENSIVE PLAN. (a) The comprehensive plan  
6 is a compilation of policy statements, goals, standards, and maps for  
7 guiding the physical, social, and economic development, both private  
8 and public, of the first or second class borough, and may include, but  
9 is not limited to, the following:

- 10 (1) statements of policies, goals, and standards;  
11 (2) a land use plan;  
12 (3) a community facilities plan;  
13 (4) a transportation plan; and  
14 (5) recommendations for implementation of the comprehensive  
15 plan.

16 (b) With the recommendations of the planning commission, the  
17 assembly shall adopt by ordinance a comprehensive plan. The assembly  
18 shall, after receiving the recommendations of the planning commission,  
19 periodically undertake an overall review of the comprehensive plan and  
20 update the plan as necessary.

21 Sec. 29.40.040. LAND USE REGULATION. (a) In accordance with a  
22 comprehensive plan adopted under AS 29.40.030 and in order to imple-  
23 ment the plan, the assembly by ordinance shall adopt or amend provi-  
24 sions governing the use and occupancy of land that may include, but  
25 are not limited to,

26 (1) zoning regulations restricting the use of land and  
27 improvements by geographic districts;

28 (2) land use permit requirements designed to encourage or  
29 discourage specified uses and construction of specified structures, or

1 to minimize unfavorable effects of uses and the construction of struc-  
2 tures;

3 (3) measures to further the goals and objectives of the  
4 comprehensive plan.

5 (b) A variance from a land use regulation adopted under this  
6 section may not be granted if

7 (1) special conditions that require the variance are caused  
8 by the person seeking the variance;

9 (2) the variance will permit a land use in a district in  
10 which that use is prohibited; or

11 (3) the variance is sought solely to relieve pecuniary  
12 hardship or inconvenience.

13 Sec. 29.40.050. APPEALS FROM ADMINISTRATIVE DECISIONS. (a) By  
14 ordinance the assembly shall provide for an appeal from an administra-  
15 tive decision of a municipal employee, board, or commission made in  
16 the enforcement, administration, or application of a land use regula-  
17 tion adopted under this chapter. The assembly may provide for an  
18 appeal to a court, hearing officer, board of adjustment, or other  
19 body. The assembly shall provide for an appeal from a decision on a  
20 request for a variance from the terms of a land use regulation when  
21 literal enforcement would deprive a property owner of rights commonly  
22 enjoyed by other properties in the district.

23 (b) By ordinance the assembly may provide for appointment of a  
24 hearing officer, or for the composition, appointment, and terms of  
25 office of a board of adjustment or other body established to hear  
26 appeals from administrative actions. The assembly may define proper  
27 parties and prescribe evidentiary rules, standards of review, and  
28 remedies available to the hearing officer, board of adjustment, or  
29 other body.

1           Sec. 29.40.060. JUDICIAL REVIEW. (a) The assembly shall pro-  
2           vide by ordinance for an appeal by a municipal officer or person  
3           aggrieved from a decision of a hearing officer, board of adjustment,  
4           or other body to the superior court.

5           (b) An appeal to the superior court under this section is an  
6           administrative appeal heard solely on the record established by the  
7           hearing officer, board of adjustment, or other body.

8           Sec. 29.40.070. PLATTING REGULATION. By ordinance the assembly  
9           shall adopt platting requirements that may include, but are not lim-  
10          ited to, the control of

11           (1) form, size, and other aspects of subdivision, dedica-  
12          tions, and vacations of land;

13           (2) dimensions and design of lots;

14           (3) street width, arrangement, and rights-of-way, including  
15          requirements for public access to lots and installation of street  
16          paving, curbs, gutters, sidewalks, sewers, water lines, drainage and  
17          other public utility facilities and improvements;

18           (4) dedication of streets, rights-of-way, public utility  
19          easements and areas considered necessary by the platting authority for  
20          other public uses.

21          Sec. 29.40.080. PLATTING AUTHORITY. (a) The assembly by ordi-  
22          nance shall establish a platting authority to administer subdivision  
23          regulations and to perform other duties as required by the assembly.  
24          The platting authority may consist of members of the planning commis-  
25          sion or of other municipal residents.

26          (b) The assembly may by ordinance provide for an administrative  
27          official to act as the platting authority with regard to abbreviated  
28          plats.

29          Sec. 29.40.090. ABBREVIATED PLATS AND WAIVERS. (a) Notwith-

1 standing other provisions of this chapter, the assembly shall by  
2 ordinance establish an abbreviated plat procedure for a plat that will

3 (1) subdivide a single lot into not more than four lots;

4 (2) provide legal and physical access to a public highway  
5 or street for each lot created by the subdivision;

6 (3) not contain or require a dedication of a street, right-  
7 of-way, or other area;

8 (4) not require a vacation of a public dedication of land  
9 or a variance from a subdivision regulation.

10 (b) The platting authority shall waive the preparation, submis-  
11 sion for approval, and recording of a plat on satisfactory evidence  
12 that the subdivision meets the requirements of (a) of this section and  
13 each lot created by the subdivision is five acres or larger.

14 Sec. 29.40.100. INFORMATION REQUIRED. A plat shall show

15 (1) initial point of survey;

16 (2) original or reestablished corners and their descrip-  
17 tions;

18 (3) actual traverse showing area of closure and all dis-  
19 tances, angles, and calculations required to determine initial point,  
20 corners, and distances of the plat; and

21 (4) other information that may be required by ordinance.

22 Sec. 29.40.110. PLAT PROCEDURE. (a) The platting authority  
23 shall approve or disapprove a plat within 60 days after it is filed,  
24 or shall return it to the applicant for modification or correction.  
25 Unless the applicant for plat approval consents to an extension of  
26 time, the plat is considered approved and a certificate of approval  
27 shall be issued by the platting authority on demand if the platting  
28 authority fails to act within 60 days.

29 (b) The platting authority shall state in writing its reasons

1 for disapproval of a plat. If the platting authority approves a plat,  
2 the plat shall be acknowledged and filed in accordance with AS 40.15.-  
3 010 - 40.15.020.

4 Sec. 29.40.120. ALTERATION OR REPLAT PETITION. A recorded plat  
5 may not be altered or replatted except by the platting authority on  
6 petition of the state, the borough, a public utility, or the owners of  
7 a majority of the land affected by the alteration or replat. A plat-  
8 ted street may not be vacated, except on petition of the state, the  
9 borough, a public utility, or owners of a majority of the land front-  
10 ing the part of the street sought to be vacated. The petition shall  
11 be filed with the platting authority and shall be accompanied by a  
12 copy of the existing plat showing the proposed alteration or replat.

13 Sec. 29.40.130. NOTICE OF HEARING. The platting authority shall  
14 fix a time for a hearing on an alteration or replat petition that may  
15 not be more than 60 days after the petition is filed. Notice shall be  
16 published by the platting authority stating when and by whom the peti-  
17 tion was filed, its purpose, and the time and place of the hearing.  
18 The notice shall generally describe the alteration or replat sought.  
19 The platting authority shall also mail a copy of the notice to each  
20 affected property owner who did not sign the petition.

21 Sec. 29.40.140. HEARING AND DETERMINATION. (a) The platting  
22 authority shall consider the alteration or replat petition at a hear-  
23 ing and make its decision on the merits of the proposal.

24 (b) Vacation of a city street may not be made without the con-  
25 sent of the council. Vacation of a street in the borough area outside  
26 all cities may not be made without the consent of the assembly. The  
27 governing body shall have 30 days from the decision of the platting  
28 authority in which to veto a vacation of a street. If no veto is  
29 received by the platting authority within the 30-day period, consent

1 is considered to have been given to the vacation.

2 Sec. 29.40.150. RECORDING. If the alteration or replat is ap-  
3 proved, the revised plat shall be acknowledged and filed in accordance  
4 with AS 40.15.010 - 40.15.020.

5 Sec. 29.40.160. TITLE TO VACATED AREA. (a) The title to the  
6 street or other public area vacated on a plat attaches to the lot or  
7 lands bordering the area in equal proportions, except that if the area  
8 was originally dedicated by different persons, original boundary lines  
9 shall be adhered to so that the street area that lies on one side of  
10 the boundary line shall attach to the abutting property on that side,  
11 and the street area that lies on the other side of the boundary line  
12 shall attach to the property on that side. The portion of a vacated  
13 street that lies inside the limits of a platted addition attaches to  
14 the lots of the platted addition bordering on the area. If a public  
15 square is vacated, the title to it vests in a city if it lies inside  
16 the city, and in the borough if it lies inside the borough but outside  
17 all cities. If the property vacated is a lot, title vests in the  
18 rightful owner.

19 (b) If the municipality acquired the street or other public area  
20 vacated for legal consideration or by express dedication to the muni-  
21 cipality other than as a subdivision platting requirement, before the  
22 final act of vacation the fair market value of the street or public  
23 area shall be deposited with the platting authority to be paid to the  
24 municipality on final vacation.

25 (c) The provisions of (a) and (b) of this section apply to home  
26 rule and general law municipalities.

27 (d) The council of a second class city located outside a borough  
28 may vacate streets, alleys, crossings, sidewalks, or other public ways  
29 that may have been previously dedicated or established when the coun-

1 cil finds that the streets, alleys, crossings, sidewalks, or other  
2 public ways are no longer necessary for the public welfare, or when  
3 the public welfare will be enhanced by the vacation. If the council  
4 determines that all or a portion of the area vacated under this sub-  
5 section should be devoted to another public purpose, title to the area  
6 vacated and held for another public purpose does not vest as provided  
7 in (a) of this section but remains in the city.

8 Sec. 29.40.170. DELEGATIONS. The planning commission and the  
9 platting authority may, as authorized by ordinance, delegate powers to  
10 hear and decide cases under this chapter, including, but not limited  
11 to, delegations to

12 (1) one or more members of the planning commission or plat-  
13 ting authority;

14 (2) other boards or commissions;

15 (3) a hearing officer designated by the planning commission  
16 or platting authority.

17 Sec. 29.40.180. VIOLATIONS. It is unlawful for the owner of  
18 land located in a subdivision to transfer, sell, offer to sell, or  
19 enter into a contract to sell land in a subdivision before a plat of  
20 the subdivision has been prepared, approved, and filed in accordance  
21 with this chapter. It is unlawful for a person to file a plat or  
22 other document depicting subdivided land in a public recorder's office  
23 unless the plat or document has been approved by the platting author-  
24 ity. A person convicted of violating a provision of this chapter, a  
25 subdivision regulation adopted under this chapter, or a term, condi-  
26 tion, or limitation imposed by a platting authority in the exercise of  
27 its powers under this chapter is guilty of a class B misdemeanor.

28 Sec. 29.40.190. REMEDIES. (a) The municipality or an aggrieved  
29 person may institute a civil action against a person who violates a

1 provision of this chapter, a subdivision regulation adopted under this  
2 chapter, or a term, condition, or limitation imposed by a platting  
3 authority. In addition to other relief, a civil penalty not to exceed  
4 \$1,000 may be imposed for each violation. An action to enjoin a  
5 violation may be brought notwithstanding the availability of any other  
6 remedy. Upon application for injunctive relief and a finding of a  
7 violation or threatened violation, the superior court shall grant the  
8 injunction.

9 (b) Each day that an unlawful act or condition continues consti-  
10 tutes a separate violation.

11 Sec. 29.40.200. SUBDIVISIONS OF STATE LAND. (a) The subdivi-  
12 sion requirements adopted under this chapter apply to a subdivision  
13 plat of undeveloped state land for disposal under AS 38.05 or AS 38.08  
14 filed with the platting authority. The platting authority may not  
15 disapprove the subdivision plat on the basis of requirements for  
16 capital improvements on or to state land included in the subdivision  
17 plat. Subdivision ordinances and regulations adopted after the plat-  
18 ting authority is notified by the commissioner of natural resources of  
19 a proposed sale of subdivided state land under AS 38.05 or AS 38.08 do  
20 not apply to the state land in the proposed sale.

21 (b) The platting authority must approve and sign a subdivision  
22 plat of state land within 60 days after its receipt from the commis-  
23 sioner of natural resources unless the platting authority

24 (1) determines that the plat does not comply with subdivi-  
25 sion requirements other than those requiring capital improvements to  
26 state land; and

27 (2) notifies the commissioner of each determination of non-  
28 compliance within the 60-day period established in this subsection.

29 (c) The commissioner of natural resources may withdraw the sub-

1 division plat and amend it in response to the determination of non-  
2 compliance by the platting authority under (b) of this section. The  
3 platting authority shall respond within 30 days to the amendment or  
4 response from the commissioner of natural resources.

5 (d) Notwithstanding any other provision of law, the provisions  
6 of this section apply to all disposals of land under AS 38.05 or  
7 AS 38.08.

8 (e) Nothing in this section relieves the Department of Natural  
9 Resources of its obligation to provide legal access to a subdivision.

10 (f) As used in this section, "capital improvements" includes but  
11 is not limited to access roads, other physical improvements, and their  
12 design and engineering.

13 (g) This section applies to home rule and general law municipal-  
14 ities.

15 \* Sec. 11. AS 29 is amended by adding a new chapter to read:

16 CHAPTER 45. MUNICIPAL TAXATION.

17 ARTICLE 1. MUNICIPAL PROPERTY TAX.

18 Sec. 29.45.010. PROPERTY TAX. (a) A unified municipality may  
19 levy a property tax. A borough may levy

20 (1) an areawide property tax for areawide functions;

21 (2) a nonareawide property tax for functions limited to the  
22 area outside cities;

23 (3) a property tax in a service area for functions limited  
24 to the service area.

25 (b) A home rule or first class city may levy a property tax  
26 subject to AS 29.45.550 - 29.45.560. A second class city may levy a  
27 property tax subject to AS 29.45.590.

28 (c) If a tax is levied on real property or on personal property,  
29 the tax must be assessed, levied, and collected as provided in this

1 chapter.

2 Sec. 29.45.020. TAXPAYER NOTICE. (a) If a municipality levies  
3 and collects property taxes, the governing body shall provide the  
4 following notice:

5 "NOTICE TO TAXPAYER

6 For the current fiscal year the (city)(borough) has been allo-  
7 cated the following amount of state aid for school and municipal  
8 purposes under the applicable financial assistance Acts:

9	PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	
10	(AS 14.17)	\$
11	STATE AID FOR RETIREMENT OF SCHOOL CONSTRUC-	
12	TION DEBT (AS 43.18.100)	\$
13	MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	
14	(AS 29.60.010 - 29.60.080)	\$
15	STATE AID FOR MISCELLANEOUS MUNICIPAL	
16	SERVICES (AS 29.60.100 - 29.60.180)	\$
17	TOTAL AID	\$

18 The millage equivalent of this state aid, based on the dollar  
19 value of a mill in the municipality during the current assessment  
20 year and for the preceding assessment year, is:

21		MILLAGE EQUIVALENT	
22		PREVIOUS YEAR	THIS YEAR
23	PUBLIC SCHOOL FOUNDATION PROGRAM		
24	ASSISTANCE	....MILLS	....MILLS
25	STATE AID FOR RETIREMENT OF		
26	SCHOOL CONSTRUCTION DEBT	....MILLS	....MILLS
27	MUNICIPAL TAX RESOURCE EQUALI-		
28	ZATION ASSISTANCE	....MILLS	....MILLS
29	STATE AID FOR MISCELLANEOUS		

1 MUNICIPAL SERVICES . . . .MILLS . . . .MILLS  
2 TOTAL MILLAGE EQ' VALENT . . . .MILLS . . . .MILLS"

3 Notice shall be provided

4 (1) by furnishing a copy of the notice with tax statements  
5 mailed for the fiscal year for which aid is received; or

6 (2) by publishing in a newspaper of general circulation in  
7 the municipality a copy of the notice once each week for a period of  
8 three successive weeks, with publication to occur not later than 45  
9 days after the final adoption of the municipality's budget.

10 (b) Compliance with the provisions of this section is a pre-  
11 requisite to receipt of municipal tax resource equalization assistance  
12 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous municipi-  
13 pal services under AS 29.60.100 - 29.60.180. The department shall  
14 withhold annual allocations under those sections until municipal  
15 officials demonstrate that the requirements of this section have been  
16 met.

17 Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) The following prop-  
18 erty is exempt from general taxation:

19 (1) municipal, state, or federally owned property, except  
20 that a private leasehold, contract, or other interest in the property  
21 is taxable to the extent of the interest;

22 (2) household furniture of the head of a family or house-  
23 hold;

24 (3) property used exclusively for nonprofit religious,  
25 charitable, cemetery, hospital, or educational purposes;

26 (4) property of a nonbusiness organization or its auxiliary  
27 composed entirely of persons with 90 days or more of active service in  
28 the armed forces of the United States whose conditions of service and  
29 separation were other than dishonorable;

1 (5) money on deposit;

2 (6) the real property of certain residents of the state to  
3 the extent and subject to the conditions provided in (e) of this sec-  
4 tion;

5 (7) real property or interests in real property that are  
6 exempt from taxation under 43 U.S.C. 1620(d), as amended, as more  
7 fully provided in (m) and (n) of this section.

8 (b) "Property used exclusively for religious purposes" includes  
9 the following property owned by a religious organization:

10 (1) the residence of a bishop, pastor, priest, rabbi,  
11 minister, or religious order of a recognized religious organization;

12 (2) a structure, its furniture, and its fixtures used  
13 solely for public worship, charitable purposes, religious administra-  
14 tive offices, religious education, or a nonprofit hospital;

15 (3) lots required by local ordinance for parking near a  
16 structure defined in (2) of this subsection.

17 (c) Property described in (a)(3) or (4) or (b) of this section  
18 from which income is derived is exempt only if that income is solely  
19 from use of the property by nonprofit religious, charitable, hospital,  
20 or educational groups. If used by nonprofit educational groups, the  
21 property is exempt only if used exclusively for classroom space.

22 (d) Laws exempting certain property from execution under the  
23 Code of Civil Procedure (AS 09) do not exempt the property from taxes  
24 levied and collected by municipalities.

25 (e) The real property owned and occupied as a permanent place of  
26 abode by a resident 65 years of age or over is exempt from taxation of  
27 the assessed value of the real property. Real property may not be  
28 exempted under this subsection that the assessor determines, after  
29 notice and hearing to the parties concerned, has been conveyed to the

1 applicant primarily for the purpose of obtaining the exemption. The  
2 determination of the assessor is appealable under AS 44.62.560 and  
3 44.62.570.

4 (f) An exemption may not be granted under (e) of this section  
5 except upon written application for the exemption on a form prescribed  
6 by the state assessor for use by local assessors. The claimant must  
7 file the application no later than January 15, or a date provided by  
8 ordinance that is not later than March 31, of the assessment year for  
9 which the exemption is sought. The governing body of the municipality  
10 for good cause shown may waive during a year the claimant's failure to  
11 make timely application for exemption for that year and authorize the  
12 assessor to accept the application as if timely filed. The claimant  
13 must file a separate application for each assessment year in which the  
14 exemption is sought. If an application is filed within the required  
15 time and is approved by the assessor, the assessor shall allow an  
16 exemption in accordance with the provisions of this section. If a  
17 failure to file by January 15, or a date provided by ordinance that is  
18 not later than March 31, of the assessment year has been waived as  
19 provided in this subsection and the application for exemption is  
20 approved, the amount of tax that the claimant has already paid for the  
21 assessment year for the property exempted shall be refunded to the  
22 claimant. The assessor may at any time require proof in the form the  
23 assessor considers necessary of the right and amount of an exemption  
24 claimed under (e) of this section.

25 (g) The state shall reimburse a borough or city, as appropriate,  
26 for the real property tax revenues lost to it by the operation of (e)  
27 of this section. However, reimbursement will be made to a municipal-  
28 ity for revenue lost to it only to the extent that the loss exceeds an  
29 exemption that was granted by the municipality, or that on proper

1 application by an individual would have been granted under AS 29.45.-  
2 050(a).

3 (h) Except as provided in (g) of this section, nothing in (e) -  
4 (j) of this section affects similar exemptions from property taxes  
5 granted by a municipality on September 10, 1972, or prevents a munici-  
6 pality from granting similar exemptions by ordinance as provided in  
7 AS 29.45.050.

8 (i) In (e) - (i) of this section "real property" includes but is  
9 not limited to mobile homes, whether classified as real or personal  
10 property for municipal tax purposes.

11 (j) One motor vehicle per household owned by a resident 65 years  
12 of age or older on January 1 of the assessment year is exempt either  
13 from taxation on its assessed value or from the registration tax under  
14 AS 28.10.431. An exemption may be granted under this subsection only  
15 upon written application on a form prescribed by the Department of  
16 Public Safety. The state shall reimburse a municipality for tax reve-  
17 nues lost to it because of the exemption required by this subsection.  
18 Reimbursement to a municipality equals the amount of registration tax  
19 authorized under AS 28.10.431(b) for each vehicle exempted under this  
20 subsection.

21 (k) The department shall adopt regulations to implement the pro-  
22 visions of (g) and (j) of this section.

23 (l) Two percent of the assessed value of a structure is exempt  
24 from taxation if the structure contains a fire protection system ap-  
25 proved under AS 19.70.081, in operating condition, and incorporated as  
26 a fixture or part of the structure. The exemption granted by this  
27 subsection is limited to

28 (1) an amount equal to two percent of the value of the  
29 structure based on the assessment for 1981, if the fire protection

1 system is a fixture of the structure on January 1, 1981; or

2 (2) an amount equal to two percent of the value of the  
3 structure based on the assessment as of January 1 of the year immedi-  
4 ately following the installation of the fire protection system if the  
5 fire protection system becomes a fixture of the structure after  
6 January 1, 1981.

7 (m) The tax exemption required by 43 U.S.C. 1620(d), as amended,  
8 shall be implemented according to the following conditions and inter-  
9 pretations:

10 (1) "developed" means a purposeful modification of the  
11 property from its original state that effectuates a condition of  
12 gainful or productive present use without further substantial modifi-  
13 cation; surveying, construction of roads, providing utilities or other  
14 similar actions normally considered to be component parts of the  
15 development process, but which do not create the condition described  
16 in this paragraph, do not constitute a developed state within the  
17 meaning of this paragraph; developed property, in order to remove the  
18 exemption, must be developed for purposes other than exploration, and  
19 be limited to the smallest practicable tract of the property actually  
20 used in the developed state;

21 (2) "exploration" means the examination and investigation  
22 of undeveloped land to determine the existence of subsurface nonrenew-  
23 able resources;

24 (3) "lease" means a grant of primary possession entered  
25 into for gainful purposes with a determinable fee remaining in the  
26 hands of the grantor; with respect to a lease that conveys rights of  
27 exploration and development, this exemption shall continue with re-  
28 spect to that portion of the leased tract that is used solely for the  
29 purpose of exploration.

1 (n) If the property or interest in the property reverts to an  
2 undeveloped state, or if the lease is terminated, the exemption shall  
3 be reinstated, subject to the provisions of (m) of this section.

4 Sec. 29.45.040. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A  
5 resident of the state 65 years of age or older who rents a permanent  
6 place of abode is eligible for tax equivalency payments from the state  
7 through the department.

8 (b) For purposes of determining payments to eligible persons,  
9 the department shall calculate a property tax equivalent percentage  
10 for each municipality that levies a property tax at the rate of one  
11 percent per mill. The property tax equivalent percentage applied to  
12 the annual rent charged to the applicant equals the property tax  
13 equivalency payment payable under this section.

14 (c) To obtain tax equivalency payments the eligible resident  
15 must apply to the department for payment for the preceding year by  
16 January 15 of each year on forms and in the manner prescribed by the  
17 department. Each applicant shall submit with the application rental  
18 receipts or, if rental receipts are not available, other evidence  
19 satisfactory to the department for determination of the fact of pay-  
20 ment of rent and the amount paid.

21 (d) If two or more persons occupy a residence as tenants, not  
22 all of whom are eligible for tax equivalency payments under this  
23 section, the assessor shall determine equitable partial payments to be  
24 made to the eligible tenants. However, tax equivalency payments to an  
25 eligible applicant may not be reduced because the spouse is less than  
26 65 years of age. If all occupants in a residence are eligible for tax  
27 equivalency payments under this section, the occupants shall decide  
28 between and among themselves which shall receive payment.

29 Sec. 29.45.050. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) A

1 municipality may exclude or exempt or partially exempt residential  
2 property from taxation by ordinance ratified by the voters at an  
3 election. An exclusion or exemption authorized by this section may  
4 not exceed the assessed value of \$10,000 for any one residence.

5 (b) A municipality may by ordinance

6 (1) classify boats and vessels for the purposes of taxation  
7 and may establish the assessed valuation of boats and vessels on the  
8 basis of their registered or certificated net tonnage;

9 (2) classify and exempt from taxation

10 (A) the property of an organization not organized for  
11 business or profit-making purposes and used exclusively for  
12 community purposes if the income derived from rental of that  
13 property does not exceed the actual cost to the owner of the use  
14 by the renter;

15 (B) historic sites, buildings, and monuments;

16 (C) land of a nonprofit organization used for agricul-  
17 tural purposes if rights to subdivide the land are conveyed to  
18 the state and the conveyance includes a covenant restricting use  
19 of the land to agricultural purposes only; rights conveyed to the  
20 state under this subparagraph may be conveyed by the state only  
21 in accordance with AS 38.05.069(c);

22 (3) exempt personal property from taxation.

23 (c) The provisions of (a) of this section notwithstanding,

24 (1) a borough may, by ordinance, adjust its property tax  
25 structure in whole or in part to the property tax structure of a city  
26 in the borough, including but not limited to, excluding personal  
27 property from taxation, establishing exemptions, and extending the  
28 redemption period;

29 (2) a home rule or first class city has the same power to

1 grant exemptions or exclude property from borough taxes that it has as  
2 to city taxes if

3 (A) the exemptions or exclusions have been adopted as  
4 to city taxes; and

5 (B) the city appropriates to the borough sufficient  
6 money to equal revenues lost by the borough because of the exemp-  
7 tions or exclusions, the amount to be determined annually by the  
8 assembly;

9 (3) a city in a borough may, by ordinance, adjust its prop-  
10 erty tax structure in whole or in part to the property tax structure  
11 of the borough, including but not limited to exempting or partially  
12 exempting property from taxation.

13 (d) Exemptions or exclusions from property tax that have been  
14 granted by a home rule municipality in addition to exemptions autho-  
15 rized or required by law, and that are in effect on September 10,  
16 1972, and not later withdrawn, are not affected by this chapter.

17 (e) A municipality may by ordinance classify and exempt or par-  
18 tially exempt from taxation privately owned land, wet land and water  
19 areas for which a scenic, conservation, or public recreation use ease-  
20 ment is granted to a governmental body. To be eligible for a tax  
21 exemption, or partial exemption, the easement must be in perpetuity.  
22 However, the easement is automatically terminated before an eminent  
23 domain taking of fee simple title or less than fee simple title to the  
24 property, so that the property owner is compensated at a rate that  
25 does not reflect the easement grant.

26 (f) A municipality may by ordinance exempt from taxation all or  
27 part of the increase in assessed value of improvements to real prop-  
28 erty if an increase in assessed value is directly attributable to  
29 alteration of the natural features of the land, or new maintenance,

1 repair, or renovation of an existing structure, and if the alteration,  
2 maintenance, repair, or renovation, when completed, enhances the  
3 exterior appearance or aesthetic quality of the land or structure. An  
4 exemption may not be allowed under this subsection for the construc-  
5 tion of an improvement to a structure if the principal purpose of the  
6 improvement is to increase the amount of space for occupancy or non-  
7 residential use in the structure or for the alteration of land as a  
8 consequence of construction activity. An exemption provided in this  
9 subsection may continue for up to four years from the date the im-  
10 provement is completed, or from the date of approval for the exemption  
11 by the local assessor, whichever is later.

12 (g) A municipality may by ordinance exempt from taxation all or  
13 part of the increase in assessed value of improvements to a single-  
14 family dwelling if the principal purpose of the improvement is to  
15 increase the amount of space for occupancy. An exemption provided in  
16 this subsection may continue for up to two years from the date the  
17 improvement is completed, or from the date of approval of an applica-  
18 tion for the exemption by the local assessor, whichever is later.

19 Sec. 29.45.060. FARM OR AGRICULTURAL LAND AND GREENHOUSES. (a)  
20 Farm use land included in a farm unit and not dedicated or being used  
21 for nonfarm purposes shall be assessed on the basis of full and true  
22 value for farm use and may not be assessed as if subdivided or used  
23 for some other nonfarm purpose. A farm use greenhouse, whether clas-  
24 sified as real or personal property for municipal tax purposes, shall  
25 be assessed on the basis of full and true value for farm use. The  
26 assessor shall maintain records valuing the land or greenhouse for  
27 both full and true value and farm use value. If the land or green-  
28 house is sold, leased, or otherwise disposed of for uses incompatible  
29 with farm use or converted to a use incompatible with farm use by the

1 owner, the owner is liable to pay an amount equal to the additional  
2 tax at the current mill levy together with eight percent interest for  
3 the preceding seven years, as though the land or greenhouse had not  
4 been assessed for farm use purposes. Payment by the owner shall be  
5 made to the state to the extent of its reimbursement for revenue loss  
6 under (e) of this section for the preceding seven years. The balance  
7 of the payment shall be made to the municipality.

8 (b) An owner of farm use land or a farm use greenhouse must, to  
9 secure the assessment under this section, apply to the assessor before  
10 May 15 of each year in which the assessment is desired. The applica-  
11 tion shall be made upon forms prescribed by the state assessor for the  
12 use of the local assessor, and shall include information that may  
13 reasonably be required to determine the entitlement of the applicant.  
14 If the land or greenhouse is leased for farm use purposes, the appli-  
15 cant shall furnish to the assessor a copy of the lease bearing the  
16 signatures of both lessee and lessor along with the completed applica-  
17 tion. The applicant shall furnish the assessor a copy of the lease  
18 covering the period for which the exemption is requested.

19 (c) In this section "farm use" means the use of land or a green-  
20 house for profit for raising and harvesting crops or ornamental  
21 plants, for the feeding, breeding, and management of livestock, for  
22 dairying, or another agricultural use, or any combination of these.  
23 To be farm use land, the owner or lessee must be actively engaged in  
24 farming the land, and derive at least 10 percent of yearly gross  
25 income from the land. To be a farm use greenhouse, the owner or  
26 lessee must derive at least 10 percent of yearly gross income from the  
27 greenhouse or from the greenhouse together with other commercial  
28 greenhouses or farm use land. This section does not apply to land for  
29 which the owner has granted, and has outstanding, a lease or option to

1 buy the surface rights. A property owner wishing to file for farm use  
2 classification having no history of farm-related income may submit a  
3 declaration of intent at the time of filing the application with the  
4 assessor setting out the intended use of the land or greenhouse and  
5 the anticipated percentage of income. An applicant using this proce-  
6 dure shall file with the assessor before February 1 of the following  
7 year a notarized statement of the percentage of gross income attribut-  
8 able to the land or greenhouse. Failure to make the filing required  
9 in this subsection forfeits the exemption.

10 (d) In the event of a crop failure by an act of God the previous  
11 year, the owner or lessee may submit an affidavit affirming that 10  
12 percent of gross income for the past three years was from farming.

13 (e) Subject to legislative appropriations for the purpose, the  
14 state shall reimburse a borough or city, as appropriate, for the prop-  
15 erty tax revenues lost to it by the operation of this section.

16 Sec. 29.45.070. MOBILE HOMES. Mobile homes, trailers, house  
17 trailers, trailer coaches and similar property used or intended to be  
18 used for residential, office, or commercial purposes and attached to  
19 the land or connected to water, gas, electric, or sewage facilities  
20 are classified as real property for tax purposes unless expressly  
21 classified as personal property by ordinance. This section does not  
22 apply to house trailers and mobile homes that are unoccupied and held  
23 for sale by persons engaged in the business of selling mobile homes.

24 Sec. 29.45.080. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROP-  
25 ERTY. (a) A municipality may levy and collect taxes on property  
26 taxable under AS 43.56 only by using one of the methods set out in (b)  
27 or (c) of this section.

28 (b) A municipality may levy and collect a tax on the full and  
29 true value of property taxable under this chapter and under AS 43.56

1 as valued by the Department of Revenue at a rate not to exceed that  
2 which produces an amount of revenue from the total municipal property  
3 tax equivalent to \$1,500 a year for each person residing in its bound-  
4 aries.

5 (c) A municipality may levy and collect a tax on the full and  
6 true value of that portion of property taxable under this chapter and  
7 under AS 43.56 as assessed by the Department of Revenue which value,  
8 when combined with the value of property otherwise taxable by the  
9 municipality, does not exceed the product of 225 percent of the aver-  
10 age per capita assessed full and true value of property in the state  
11 multiplied by the number of residents of the taxing municipality. For  
12 purposes of this subsection, the average per capita assessed full and  
13 true value of property in the state shall be calculated without regard  
14 to the assessed value of taxable property under AS 43.58.

15 (d) By February 1 of each assessment year a taxing municipality  
16 must inform the Department of Revenue which method of taxation the  
17 municipality will use.

18 (e) For purposes of this section, population shall be determined  
19 by the commissioner based on the latest statistics of the United  
20 States Bureau of the Census or on other reliable population data, and  
21 the commissioner shall advise each municipality of its population by  
22 January 15 of each year.

23 Sec. 29.45.090. TAX LIMITATION. (a) A municipality may not,  
24 during a year, levy and tax for any purpose in excess of three percent  
25 of the assessed value of property in the municipality. All property  
26 on which a tax is levied shall be taxed at the same rate during the  
27 year.

28 (b) A municipality, or combination of municipalities occupying  
29 the same geographical area, in whole or in part, may not levy taxes

1 (1) that will result in tax revenues from all sources ex-  
2 ceeding \$1,500 a year for each person residing within the municipal  
3 boundaries; or

4 (2) upon value that, when combined with the value of prop-  
5 erty otherwise taxable by the municipality, exceeds the product of 225  
6 percent of the average per capita assessed full and true value of  
7 property in the state multiplied by the number of residents of the  
8 taxing municipality.

9 (c) The commissioner shall apportion the lawful levy and equi-  
10 tably divide the tax revenues on the basis of need, services per-  
11 formed, and other considerations in the public interest if two or more  
12 municipalities occupying the same geographical area, in whole or in  
13 part, attempt to levy a tax

14 (1) the combined levy of which would result in tax revenues  
15 from all sources exceeding \$1,500 a year for each person residing  
16 within the municipal boundaries; or

17 (2) upon value that, when combined with the value of prop-  
18 erty otherwise taxable by the municipality, exceeds the product of 225  
19 percent of the average per capita assessed full and true value of  
20 property in the state multiplied by the number of residents of the  
21 taxing municipality.

22 (d) For the purpose of (b) and (c) of this section, population  
23 shall be determined by the commissioner based on the latest statistics  
24 of the United States Bureau of the Census or on other reliable popula-  
25 tion data. For purposes of (b) and (c) of this section, the average  
26 per capita assessed full and true value of property in the state shall  
27 be calculated without regard to the assessed value of taxable property  
28 under AS 43.58.

29 Sec. 29.45.100. NO LIMITATIONS ON TAXES TO PAY BONDS. The

1 limitations provided for in AS 29.45.080 - 29.45.090 do not apply to  
2 taxes levied or pledged to pay or secure the payment of the principal  
3 and interest on bonds. Taxes to pay or secure the payment of princi-  
4 pal and interest on bonds may be levied without limitation as to rate  
5 or amount, regardless of whether the bonds are in default or in danger  
6 of default.

7       Sec. 29.45.110. FULL AND TRUE VALUE. (a) The assessor shall  
8 assess property at its full and true value as of January 1 of the  
9 assessment year, except as provided in this section, AS 29.45.060, and  
10 29.45.230. The full and true value is the estimated price that the  
11 property would bring in an open market and under the then prevailing  
12 market conditions in a sale between a willing seller and a willing  
13 buyer both conversant with the property and with prevailing general  
14 price levels.

15       (b) Assessment of business inventories may be based on the  
16 average monthly method of assessment rather than the value existing on  
17 January 1. The method used to assess business inventories shall be  
18 prescribed by the governing body.

19       (c) In the case of cessation of business during the tax year,  
20 the municipality may provide for reassessment of business inventories  
21 using the average monthly method of assessment for the tax year rather  
22 than the value existing on January 1 of the tax year, and for reduc-  
23 tion and refund of taxes. In enacting an ordinance authorized by this  
24 section, the municipality may prescribe procedures, restrictions, and  
25 conditions of assessing or reassessing business inventories and of  
26 remitting or refunding taxes.

27       Sec. 29.45.120. RETURNS. (a) The municipality may require each  
28 person having ownership or control of or an interest in property to  
29 submit a return in the form prescribed by the assessor, based on prop-

1 erty values existing on January 1, except as otherwise provided in  
2 this chapter.

3 (b) The assessor may, by written notice, require a person to  
4 provide additional information within 30 days.

5 Sec. 29.45.130. INDEPENDENT INVESTIGATION. (a) The assessor is  
6 not bound to accept a return as correct. The assessor may make an  
7 independent investigation of property returned or of taxable property  
8 on which no return has been filed. In either case, the assessor may  
9 make the assessor's own valuation of the taxable property and this  
10 valuation is prima facie evidence of the value of the property.

11 (b) For investigation, the assessor or the assessor's agent may  
12 enter a premise during reasonable hours and may examine property on  
13 the premise. The assessor or the assessor's agent may examine all  
14 property records involved. A person shall, on request, furnish to the  
15 assessor or the assessor's agent every facility and assistance for the  
16 investigation. The assessor may seek a court order to compel entry  
17 and production of records needed for assessment purposes.

18 (c) An assessor may examine a person on oath. On request, the  
19 person shall submit to examination at a reasonable time and place  
20 selected by the assessor.

21 Sec. 29.45.140. VIOLATIONS. A person who knowingly fails to  
22 file a statement required by ordinance or who knowingly makes a false  
23 affidavit to a statement required by a tax ordinance relative to the  
24 amount, location, kind or value of property subject to taxation with  
25 intent to evade the taxation, is guilty of a class B misdemeanor.

26 Sec. 29.45.150. REEVALUATION. A systematic reevaluation of  
27 taxable real and personal property undertaken by the assessor, whether  
28 of specific areas in which real property is located or of specific  
29 classes of real or personal property to be assessed, shall be made

1 only in accordance with a resolution or other act of the municipality  
2 directing a systematic reevaluation of all taxable property in the  
3 municipality over the shortest period of time practicable, as fixed in  
4 the resolution or act.

5 Sec. 29.45.100. ASSESSMENT ROLL. (a) The assessor shall pre-  
6 pare an annual assessment roll. The roll shall contain

- 7 (1) a description of all taxable property;  
8 (2) the assessed value of all taxable property;  
9 (3) the names and addresses of persons with property sub-  
10 ject to assessment and taxation.

11 (b) The assessor may list real property by any description that  
12 may be made certain. Real property is assessed to the record owner.  
13 The district recorder shall at least monthly provide the assessor a  
14 copy of each recorded change of ownership showing the name and mailing  
15 address of the owner and the name and mailing address of the person  
16 recording the change of ownership. Other persons having an interest  
17 in the property may be listed on the assessment records with the  
18 owner. The person in whose name property is listed as owner is conclu-  
19 sively presumed to be the legal record owner. If the property owner  
20 is unknown, the property may be assessed to "unknown owner". An  
21 assessment is not invalidated by a mistake, omission, or error in the  
22 name of the owner, if the property is correctly described.

23 Sec. 29.45.170. ASSESSMENT NOTICE. (a) The assessor shall give  
24 each person named in the assessment roll a notice of assessment,  
25 showing the assessed value of the person's property. On each notice  
26 is printed a brief summary of the dates when taxes are payable, delin-  
27 quent, and subject to penalty and interest, and the dates when the  
28 board of equalization will sit.

29 (b) Sufficient assessment notice is given if mailed by first

1 class mail 30 days before the equalization hearings. If the address  
2 is not known to the assessor, the notice may be addressed to the  
3 person at the post office nearest the property. Notice is effective  
4 on the date of mailing.

5 Sec. 29.45.180. CORRECTIONS. (a) A person receiving an assess-  
6 ment notice shall advise the assessor of errors or omissions in the  
7 assessment of the person's property. The assessor may correct errors  
8 or omissions in the roll before the board of equalization hearing.

9 (b) If errors found in the preparation of the assessment roll  
10 are adjusted, the assessor shall mail a corrected notice allowing 30  
11 days for appeal to the board of equalization.

12 Sec. 29.45.190. APPEAL. (a) A person whose name appears on the  
13 assessment roll or the agent or assigns of that person may appeal to  
14 the board of equalization for relief from an alleged error in valua-  
15 tion not adjusted by the assessor to the taxpayer's satisfaction.

16 (b) The appellant shall, within 30 days after the date of mail-  
17 ing of notice of assessment, submit to the assessor a written appeal  
18 specifying grounds in the form that the board of equalization may  
19 require. Otherwise, the right of appeal ceases unless the board of  
20 equalization finds that the taxpayer was unable to comply.

21 (c) The assessor shall notify an appellant by mail of the time  
22 and place of hearing.

23 (d) The assessor shall prepare for use by the board of equaliza-  
24 tion a summary of assessment data relating to each assessment that is  
25 appealed.

26 (e) A city in a borough may appeal an assessment to the borough  
27 board of equalization in the same manner as a taxpayer. Within five  
28 days after receipt of the appeal, the assessor shall notify the person  
29 whose property assessment is being appealed by the city.

1           Sec. 29.45.200. BOARD OF EQUALIZATION. (a) The governing body  
2 sits as a board of equalization for the purpose of hearing an appeal  
3 from a determination of the assessor, or it may delegate this author-  
4 ity to one or more boards appointed by it. An appointed board may be  
5 composed of not less than three persons, who may be members of the  
6 governing body, municipal residents, or a combination of members of  
7 the governing body and residents. The governing body shall by ordi-  
8 nance establish the qualifications for membership.

9           (b) The board of equalization is governed in its proceedings by  
10 rules adopted by ordinance that are consistent with general rules of  
11 administrative procedure. The board may alter an assessment of a lot  
12 only pursuant to an appeal filed as to the particular lot.

13           (c) Notwithstanding other provisions in this section, a deter-  
14 mination of the assessor as to whether property is taxable under law  
15 may be appealed directly to the superior court.

16           Sec. 29.45.210. HEARING. (a) If an appellant fails to appear,  
17 the board of equalization may proceed with the hearing in the absence  
18 of the appellant.

19           (b) The appellant bears the burden of proof. The only grounds  
20 for adjustment of assessment are proof of unequal, excessive, im-  
21 proper, or under valuation based on facts that are stated in a valid  
22 written appeal or proven at the appeal hearing. If a valuation is  
23 found to be too low, the board of equalization may raise the assess-  
24 ment.

25           (c) The board of equalization shall certify its actions to the  
26 assessor within seven days. Except as to supplementary assessments,  
27 the assessor shall enter the changes and certify the final assessment  
28 roll by June 1.

29           (d) An appellant or the assessor may appeal a determination of

1 the board of equalization to the superior court as provided by rules  
2 of court applicable to appeals from the decisions of administrative  
3 agencies. Appeals are heard on the record established at the hearing  
4 before the board of equalization.

5 Sec. 29.45.220. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor  
6 shall include property omitted from the assessment roll on a supple-  
7 mentary roll, using the procedures set out in this chapter for the  
8 original roll.

9 Sec. 29.45.230. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A  
10 NATURAL DISASTER. (a) The municipality may provide for assessment or  
11 reassessment and reduction of taxes for property destroyed, damaged,  
12 or otherwise reduced in value as a result of a natural disaster.

13 (b) An assessment or reassessment under this section may be made  
14 by the assessor only upon the receipt of a sworn statement of the tax-  
15 payer that losses exceed \$1,000. A reduction of taxes may be made  
16 only on losses in excess of \$1,000 for the remainder of the year  
17 following the disaster. On reassessment, the municipality shall  
18 recompute this tax and refund taxes that have already been paid.

19 (c) The municipality shall give notice of assessment or re-  
20 assessment under this section and shall hold an equalization hearing  
21 as provided in this chapter, except that a notice of appeal must be  
22 filed with the board of equalization within 10 days after notice of  
23 assessment or reassessment is given to the person appealing. Other-  
24 wise, the right of appeal ceases unless the board finds that the  
25 taxpayer is unable to comply.

26 (d) In enacting an ordinance or resolution authorized by this  
27 section the municipality may, consistent with this section, prescribe  
28 procedures, restrictions, and conditions of assessing or reassessing  
29 property and of remitting, refunding, or forgiving taxes.

1 (e) In this section "disaster" means a major disaster declared  
2 by the President of the United States under the provisions of the  
3 Federal Disaster Act of 1950, Title 42, United States Code, sec.  
4 1855-1855g, or other federal law, or a disaster declared by the gover-  
5 nor under AS 26.23.010 - 26.23.110.

6 Sec. 29.45.240. TAX LEVY AND RATE. (a) The power granted to a  
7 municipality to assess, levy, and collect a property tax shall be  
8 exercised by means of an ordinance. The rate of levy, the date of  
9 equalization, and the date when taxes become delinquent shall be fixed  
10 by resolution.

11 (b) A municipality shall annually determine the rate of levy  
12 before June 15. By July 1 the tax collector shall mail tax statements  
13 setting out the levy, dates when taxes are payable and delinquent, and  
14 penalties and interest.

15 Sec. 29.45.250. RATES OF PENALTY AND INTEREST. (a) A penalty  
16 not to exceed 20 percent of the tax due may be added to all delinquent  
17 taxes, and interest not to exceed 15 percent a year shall accrue upon  
18 all unpaid taxes, not including penalty, from the due date until paid  
19 in full. A municipality may impose a penalty not to exceed 20 percent  
20 of the tax due upon the late return of personal property assessment  
21 forms. A penalty under this section may be imposed according to a  
22 formula that increases the amount of the penalty as the length of time  
23 increases during which payment is delinquent or assessment forms are  
24 not returned.

25 (b) If a taxpayer is given the right to pay the tax in two in-  
26 stallments, penalty and interest on an unpaid installment accrues from  
27 the date the installment becomes due.

28 ARTICLE 2. ENFORCEMENT OF TAX LIENS.

29 Sec. 29.45.290. VALIDITY. Certified assessment and tax rolls

1 are valid and binding on all persons, notwithstanding a defect, error,  
2 omission, or invalidity in the assessment rolls or proceedings per-  
3 taining to the assessment roll.

4 Sec. 29.45.300. TAX LIABILITY. (a) The owner of assessed per-  
5 sonal property is personally liable for the amount of taxes assessed  
6 against the property. The tax, together with penalty and interest,  
7 may be collected in a personal action brought in the name of the  
8 municipality.

9 (b) Property taxes, together with penalty and interest, are a  
10 lien upon the property assessed, and the lien is prior and paramount  
11 to all other liens or encumbrances against the property.

12 Sec. 29.45.310. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY  
13 DISTRAINT AND SALE. (a) A lien for personal property taxes may be  
14 enforced by distraint and sale of the property. The municipality  
15 shall provide the procedure for distraint and sale by ordinance. A  
16 seizure, levy, or distraint is not legal unless demand is first made  
17 of the person assessed for the amount of the tax, penalty, and inter-  
18 est, and a sale is not valid unless made at public auction no sooner  
19 than 15 days after notice is published. The seizure is made by virtue  
20 of a warrant issued by the municipal clerk to a peace officer.

21 (b) If the personal property sold is not sufficient to satisfy  
22 the tax, penalty, and interest, and costs of sale, the warrant may  
23 authorize the seizure of other personal property sufficient to satisfy  
24 the tax, penalty, interest, and costs of sale. If the property is  
25 sold for more money than is needed to satisfy the tax, the municipal-  
26 ity shall remit the excess to the former record owner upon presenta-  
27 tion of a proper claim. A claim for the excess filed after six months  
28 of the date of sale is forever barred.

29 Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) The munici-

1 pality shall enforce delinquent real property tax liens by annual  
2 foreclosure, unless otherwise provided by ordinance.

3 (b) If the tax on property described in AS 29.45.070 or on a  
4 taxable interest in tax-exempt property is not paid when due, a muni-  
5 cipality may enforce the tax by a personal action against the delin-  
6 quent taxpayer brought in the district or superior court, in addition  
7 to other remedies available to enforce the lien.

8 Sec. 29.45.330. FORECLOSURE LIST. (a) A municipality shall

9 (1) annually present a petition for judgment and a certi-  
10 fied copy of the foreclosure list for the previous year's delinquent  
11 taxes in the superior court for judgment;

12 (2) publish the foreclosure list for four consecutive weeks  
13 in a newspaper of general circulation distributed in the municipality  
14 or, if there is no newspaper of general circulation distributed in the  
15 municipality, post the list at three public places for at least 30  
16 days;

17 (3) within 10 days after the first publication or posting,  
18 mail to the last known owner of each property as the owner's name and  
19 address appear on the list a notice advising of the foreclosure pro-  
20 ceeding in which a petition for judgment of foreclosure has been filed  
21 and describing the property and the amount due as stated on the list.

22 (b) The list shall be arranged in alphabetical order as to the  
23 last name and shall include

24 (1) the last known owner;

25 (2) the property description as stated on the assessment  
26 roll;

27 (3) years and amounts of delinquency;

28 (4) penalty and interest due;

29 (5) a statement that the list is available for public

1 inspection at the clerk's office;

2 (6) a statement that the list has been presented to the  
3 superior court with a petition for judgment and decree.

4 (c) Completion of the requirements of (a) of this section con-  
5 stitutes and has the same force and effect as the filing of an indi-  
6 vidual and separate complaint and service of summons to foreclose a  
7 lien against each property described on the foreclosure list.

8 Sec. 29.45.340. CLEARING DELINQUENCIES. During the publication  
9 or posting of the foreclosure list and up to the time of transfer to  
10 the municipality a person may pay the taxes, together with the  
11 penalty, interest, and costs. The collector shall note payment on the  
12 foreclosure list.

13 Sec. 29.45.350. LIST TO LIENHOLDER. A holder of a mortgage or  
14 other lien on real property may request the clerk to send by certified  
15 mail notice of a foreclosure list that includes the real property.

16 Sec. 29.45.360. GENERAL FORECLOSURE. A municipality shall bring  
17 one general foreclosure proceeding in rem against the properties in-  
18 cluded in the foreclosure list. If the owner is unknown, the property  
19 is proceeded against as belonging to "unknown owner".

20 Sec. 29.45.370. ANSWER AND OBJECTION. A person having an inter-  
21 est in a lot on the foreclosure list may file an answer within 30 days  
22 of the date of last publication, specifying the person's objection.  
23 The court shall make its decision in summary proceedings. The fore-  
24 closure list is prima facie evidence that the assessment and levy of  
25 the tax is valid and that the tax is unpaid.

26 Sec. 29.45.380. JUDGMENT. The court shall in a proper case give  
27 judgment and decree that the tax liens be foreclosed. It is a several  
28 judgment against each lot and a lien on each lot.

29 Sec. 29.45.390. TRANSFER AND APPEAL. (a) Foreclosed properties

1 are transferred to the municipality for the lien amount. When answers  
2 are filed the court may enter judgment against and order the transfer  
3 to the municipality of all other properties on the list pending deter-  
4 mination of the matters in controversy. The court shall hear and  
5 determine the issues raised by the complaint and answers in the same  
6 manner and under the same rules as it hears and determines other  
7 actions.

8 (b) The court clerk shall deliver a certified copy of the judg-  
9 ment and decree to the municipal clerk. The certified judgment and  
10 decree constitutes a transfer to the municipality.

11 (c) The judgment and decree stops objections to it that could  
12 have been presented before judgment and decree. Appeal from a judg-  
13 ment and decree of foreclosure, or from a final order in the proceed-  
14 ing, may be taken in the manner provided for appeals in civil actions.

15 Sec. 29.45.400. REDEMPTION PERIOD. Properties transferred to  
16 the municipality are held by the municipality for at least one year.  
17 During the redemption period a party having an interest in the prop-  
18 erty may redeem it by paying the lien amount plus penalties, interest,  
19 and costs, including all costs incurred under AS 29.45.440(a). Prop-  
20 erty redeemed is subject to all accrued taxes, assessments, liens, and  
21 claims as though it had continued in private ownership. Only the  
22 amount applicable under the judgment and decree must be paid in order  
23 to redeem the property.

24 Sec. 29.45.410. EFFECT. Receipt of redemption money by the  
25 municipality releases the judgment obtained under AS 29.45.380. The  
26 clerk or the clerk's designee shall record the redemption and issue a  
27 certificate containing a property description, the redemption amount,  
28 and the dates of judgment and decree of foreclosure. The clerk or the  
29 clerk's designee shall collect the recording fee at the time of re-

1 demption and shall file the certificate with the record as part of the  
2 judgment roll.

3       Sec. 29.45.420. ADDITIONAL LIENS. If a property included in a  
4 foreclosure list is removed after payment of delinquencies or redemp-  
5 tion by another lienholder, the payment represented by receipt for  
6 payment constitutes an additional lien on the property, collectible by  
7 the lienholder in the same manner as the original lien.

8       Sec. 29.45.430. POSSESSION DURING REDEMPTION PERIOD. Foreclo-  
9 sure does not affect the former owner's right to possession during the  
10 redemption period. If waste is committed by the former owner or by  
11 anyone acting under the permission or control of the former owner, the  
12 municipality may declare an immediate forfeiture of the right to  
13 possession.

14       Sec. 29.45.440. EXPIRATION. (a) At least 30 days before the  
15 expiration of the redemption period the clerk or the clerk's designee  
16 shall publish a redemption period expiration notice. The notice shall  
17 contain the date of judgment, the date of expiration of the period of  
18 redemption, and a warning that all properties ordered sold under the  
19 judgment, unless redeemed, shall be deeded to the municipality immedi-  
20 ately on expiration of the period of redemption and that every right  
21 or interest of a person in the properties will be forfeited forever to  
22 the municipality. The notice appears once a week for four consecutive  
23 weeks in a newspaper of general circulation distributed in the muni-  
24 cipality. If there is no newspaper of general circulation distributed  
25 in the municipality, the notice is posted in three public places for  
26 at least four consecutive weeks. The clerk shall send a copy of the  
27 notice by certified mail to each record owner of property against  
28 which a judgment of foreclosure has been taken and, if the assessed  
29 value of the property is more than \$100,000, to all holders of mort-

1 gages or other liens of record on the property. The notice shall be  
2 mailed within five days after the first publication. The mailing  
3 shall be sufficient if mailed to the property owner and to the holder  
4 of a mortgage or recorded lien at the last address of record.

5 (b) The right of redemption expires 30 days after the date of  
6 the first notice publication.

7 (c) Costs incurred in the determination of holders of mortgages  
8 and other liens of record and costs of notice publication incurred by  
9 a municipality under (a) of this section are a lien on the property  
10 and may be recovered by the municipality.

11 Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) Unredeemed prop-  
12 erty in the area of the borough outside all cities is deeded to the  
13 borough by the clerk of the court. Unredeemed property in a city is  
14 deeded to the city subject to the payment by the city of unpaid bor-  
15 ough taxes and costs of foreclosure levied against the property before  
16 foreclosure. The deed shall be recorded in the recording district in  
17 which the property is located.

18 (b) Conveyance gives the municipality clear title, except for  
19 prior recorded tax liens of the United States and the state.

20 (c) If unredeemed property lies in a city and if the city has no  
21 immediate public use for the property but the borough does have an  
22 immediate public use, the city shall deed the property to the borough.  
23 If unredeemed property lies in the borough outside all cities and if  
24 the borough does not have an immediate public use for the property but  
25 a city does have an immediate public use, the borough shall deed the  
26 property to the city.

27 (d) No deed is invalid for irregularities, omissions, or defects  
28 in the proceedings under this chapter unless the former owner has been  
29 misled so as to be injured. Two years after the date of the deed, its

1 validity is conclusively presumed and a claim of the former owner or  
2 other person having an interest in the property is forever barred.

3 Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTY.

4 (a) The municipality shall determine by ordinance whether foreclosed  
5 property deeded to the municipality shall be retained for a public  
6 purpose. The ordinance shall contain the legal description of the  
7 property, the address or a general description of the property suffi-  
8 cient to provide the public with notice of its location, and the name  
9 of the last record owner of the property as the name appears on the  
10 assessment rolls.

11 (b) Tax-foreclosed property conveyed to a municipality by tax  
12 foreclosure and not required for a public purpose may be sold. Before  
13 the sale of tax-foreclosed property held for a public purpose, the  
14 municipality, by ordinance, shall determine that a public need does  
15 not exist. The ordinance shall contain the information required under  
16 (a) of this section.

17 (c) The clerk or the clerk's designee shall send a copy of the  
18 published notice of hearing of an ordinance to consider a determina-  
19 tion required under (a) or (b) of this section by certified mail to  
20 the former record owner of the property that is the subject of the  
21 ordinance. The notice shall be mailed within five days after its  
22 first publication and shall be sufficient if mailed to the last record  
23 owner of the property as the name appears on the assessment rolls of  
24 the municipality.

25 (d) The provisions of (c) of this section do not apply with  
26 respect to property that has been held by the municipality for a  
27 period of more than 10 years after the close of the redemption period.

28 Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record  
29 owner at the time of tax foreclosure of property acquired by a muni-

1       cipality, or the assigns of that record owner, may, within 10 years  
2       and before the sale or contract of sale of the tax-foreclosed property  
3       by the municipality, repurchase the property. The municipality shall  
4       sell the property for the full amount applicable to the property under  
5       the judgment and decree, with interest not to exceed 15 percent a year  
6       from the date of entry of the judgment of foreclosure to the date of  
7       repurchase, delinquent taxes assessed and levied as though it had  
8       continued in private ownership, and costs of foreclosure and sale.

9       (b) After adoption of an ordinance providing for the retention  
10      of tax-foreclosed property by the municipality for a public purpose,  
11      the right of the former record owner to repurchase the property  
12      ceases.

13      Sec. 29.45.480. PROCEEDS OF TAX SALE. (a) On sale of fore-  
14      closed real or personal property the municipality shall divide the  
15      proceeds less cost of collection, between the borough and the city  
16      having unpaid taxes against the property. The division is in propor-  
17      tion to the respective municipal taxes against the property at the  
18      time of foreclosure.

19      (b) If tax-foreclosed real property that has been held by a  
20      municipality for less than 10 years after the close of the redemption  
21      period and never designated for a public purpose is sold at a tax-  
22      foreclosure sale, the former record owner is entitled to the portion  
23      of the proceeds of the sale that exceeds the amount of unpaid taxes,  
24      the amount equal to taxes that would have been assessed and levied  
25      after foreclosure if the property had continued in private ownership,  
26      penalty, interest, and costs to the municipality of foreclosing and  
27      selling the property. If the proceeds of the sale of tax-foreclosed  
28      property exceed the total of unpaid and delinquent taxes, penalty,  
29      interest, and costs, the municipality shall provide the former owner

1 of the property written notice advising of the amount of the excess  
2 and the manner in which a claim for the balance of the proceeds may be  
3 submitted. Notice is sufficient under this subsection if mailed to  
4 the former record owner at the last address of record of the former  
5 record owner. On presentation of a proper claim, the municipality  
6 shall remit the excess to the former record owner. A claim for the  
7 excess filed after six months of the date of sale is forever barred.

8 Sec. 29.45.490. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a  
9 municipality takes title to tax-foreclosed property for a public pur-  
10 pose, the municipality shall satisfy unpaid taxes and assessments  
11 against the property held by other municipalities, with accrued inter-  
12 est but without penalty. If the amount required to satisfy the unpaid  
13 taxes and assessments exceeds the assessed value of the property, the  
14 municipality shall pay the other municipalities the assessed value,  
15 which shall be divided between the other municipalities in proportion  
16 to their respective taxes and assessments against the property at the  
17 time of foreclosure.

18 Sec. 29.45.500. REFUND OF TAXES. (a) If a taxpayer pays taxes  
19 under protest, the taxpayer may bring suit in the superior court  
20 against the municipality for recovery of the taxes. If judgment for  
21 recovery is given against the municipality, or, if in the absence of  
22 suit, it becomes obvious to the governing body that judgment for  
23 recovery of the taxes would be obtained if legal proceedings were  
24 brought, the municipality shall refund the amount of the taxes to the  
25 taxpayer with interest at eight percent from the date of payment plus  
26 costs.

27 (b) If, in payment of taxes legally imposed, a remittance by a  
28 taxpayer through error or otherwise exceeds the amount due, and the  
29 municipality, on audit of the account in question, is satisfied that

1 this is the case, the municipality shall refund the excess to the tax-  
2 payer with interest at eight percent from the date of payment. A  
3 claim for refund filed one year after the due date of the tax is  
4 forever barred.

5 (c) The governing body may correct manifest clerical errors at  
6 anytime.

7 ARTICLE 3. CITY PROPERTY TAX.

8 Sec. 29.45.550. CITIES OUTSIDE BOROUGHES. Home rule and first  
9 class cities outside boroughs may assess, levy, and collect a property  
10 tax. A property tax if levied must be assessed, levied, and collected  
11 as provided by AS 29.45.010 - 29.45.500.

12 Sec. 29.45.560. CITIES INSIDE BOROUGHES. Home rule and first  
13 class cities inside boroughs may levy a property tax. A property tax,  
14 if levied, is subject to AS 29.45.010 - 29.45.050, 29.45.090 - 29.45.-  
15 100, 29.45.250, 29.45.400 - 29.45.440 and 29.45.460 - 29.45.500. The  
16 council shall by June 15 of each year present to the assembly a state-  
17 ment of the city's rate of levy unless a different date is agreed upon  
18 by the borough and city.

19 Sec. 29.45.570. APPLICATION. AS 29.45.010 - 29.45.570 apply to  
20 home rule and general law municipalities.

21 Sec. 29.45.580. DIFFERENTIAL TAX ZONES. A city may by ordinance  
22 establish, alter, and abolish differential tax zones to provide and  
23 levy property taxes for services not provided generally in the city or  
24 a different level of service than that provided generally in the city.

25 Sec. 29.45.590. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS  
26 CITIES. A second class city may by referendum levy property taxes as  
27 provided for first class cities. However, levy by a second class city  
28 may not exceed one-half of one percent of the assessed value of the  
29 property taxed, except that the limit does not apply to a levy neces-

1 sary to avoid a default upon payment of principal and interest of  
2 bonded or other indebtedness that is secured by a pledge to levy ad  
3 valorem or other taxes without limit to meet debt payments.

4 Sec. 29.45.600. COMBINING PROPERTY TAX WITH INCORPORATION OF A  
5 SECOND CLASS CITY. A petition for second class city incorporation may  
6 request that a property tax proposal be placed on the same ballot.  
7 The petition must state the proposed tax rate. The petition may re-  
8 quest that incorporation be dependent on the passage of the property  
9 tax proposition. If so, the incorporation proposition fails if the  
10 property tax fails.

11 ARTICLE 4. BOROUGH SALES AND USE TAX.

12 Sec. 29.45.650. SALES AND USE TAX. (a) A borough may levy and  
13 collect a sales tax not exceeding six percent on sales, rents, and on  
14 services provided in the borough. The sales tax may apply to any or  
15 all of these sources. Exemptions may be granted by ordinance.

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

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

27 (d) If the assembly charges interest on sales taxes not paid  
28 when due, the rate of interest may not exceed 15 percent a year on the  
29 delinquent taxes and shall be charged from the due date until paid in

1 full. This subsection applies to home rule and general law municipal-  
2 ities.

3 (e) A borough may provide for the creation, recording, and  
4 notice of a lien on real or personal property to secure the payment of  
5 a sales and use tax, and the interest, penalties, and administration  
6 costs in the event of delinquency. When recorded, a lien authorized  
7 under this section has priority over other liens except those for  
8 property taxes and special assessments.

9 Sec. 29.45.660. NOTICE OF SALES AND USE TAX. (a) If the bor-  
10 ough levies and collects only a sales tax and use tax, the assembly  
11 shall provide a notice substantially in the form set out in AS 29.45.-  
12 020. In providing notice under this subsection, the assembly shall  
13 substitute for the millage equivalency its estimate of the equivalent  
14 sales tax rate for each of the categories of financial assistance set  
15 out in AS 29.45.020. Notice shall be provided

16 (1) by publishing in a newspaper of general circulation in  
17 the borough a copy of the notice once each week for a period of three  
18 successive weeks, with publication to occur not later than 45 days  
19 after the final adoption of the borough's budget; or

20 (2) if there is no newspaper of general circulation in the  
21 borough, by posting a copy of the notice for at least 20 days in at  
22 least two public places in the borough, with posting to occur not  
23 later than 45 days after the final adoption of the borough's budget.

24 (b) Compliance with the provisions of this section is a prereq-  
25 uisite to receipt of municipal tax resource equalization assistance  
26 under AS 29.60.010 - 29.60.080 and state aid for miscellaneous municipi-  
27 pal services under AS 29.60.100 - 29.60.180. The department shall  
28 withhold annual allocations under those sections until municipal  
29 officials demonstrate that the requirements of this section have been

1 met.

2 Sec. 29.45.670. REFERENDUM, ADOPTION, AND MODIFICATION. A new  
3 sales and use tax or an increase in the rate of levy of a sales tax  
4 approved by ordinance does not take effect until ratified by a major-  
5 ity of the voters at an election.

6 ARTICLE 5. CITY SALES AND USE TAXES.

7 Sec. 29.45.700. POWER OF LEVY. (a) A city in a borough that  
8 levies and collects areawide sales and use taxes may levy sales and  
9 use taxes on all sources taxed by the borough in the manner provided  
10 for boroughs, except that the assembly may by ordinance authorize a  
11 city to levy and collect sales and use taxes on other sources.

12 (b) A city in a borough that does not levy and collect sales and  
13 use taxes for areawide borough functions may levy and collect sales  
14 and use taxes in the manner provided for boroughs.

15 (c) A city outside a borough may levy and collect sales and use  
16 taxes in the manner provided for boroughs.

17 Sec. 29.45.710. COMBINING SALES AND USE TAX WITH INCORPORATION  
18 OF A SECOND CLASS CITY. A petition for incorporation of a second  
19 class city may request that a sales and use tax proposal be placed on  
20 the same ballot. The petition must state the proposed tax rate. The  
21 petition may request that incorporation be dependent on the passage of  
22 the tax proposition. If so, the incorporation proposition fails if  
23 the tax fails.

24 \* Sec. 12. AS 29 is amended by adding a new chapter to read:

25 CHAPTER 46. SPECIAL ASSESSMENTS.

26 Sec. 29.46.010. ASSESSMENT AND PROPOSAL. The municipality may  
27 assess against the property of a state or federal governmental unit  
28 and private real property to be benefited by an improvement all or a  
29 portion of the cost of acquiring, installing, or constructing capital

1 improvements. The state shall pay an assessment levied, except as  
2 otherwise provided by law and subject to its right of protest under  
3 AS 29.46.020(a)(8). If a governmental unit other than the state  
4 benefited by an improvement refuses to pay the assessment, it shall be  
5 denied the benefit of the improvement. An improvement proposal may be  
6 initiated by

7 (1) petition to the governing body of the owners of one-  
8 half in value of the property to be benefited; or

9 (2) the governing body.

10 Sec. 29.46.020. PROCEDURE. (a) The municipality may prescribe  
11 by ordinance the procedures relating to creating special assessment  
12 districts, making local improvements, levying and collecting assess-  
13 ments, and financing improvements, including the following:

14 (1) a procedure for filing petitions;

15 (2) a survey and report by the mayor concerning the need  
16 for, desirable extent of, and estimated cost of each proposed local  
17 improvement;

18 (3) a public hearing on the necessity for the proposed  
19 local improvement;

20 (4) a resolution or ordinance determining to proceed or not  
21 to proceed with the proposed local improvement;

22 (5) a public hearing by the governing body on the special  
23 assessment roll for the proposed local improvement;

24 (6) published notice of each public hearing required by  
25 this section and mailing notice to each record owner of real property  
26 in the special assessment district;

27 (7) a resolution or ordinance confirming the special  
28 assessment roll for the proposed local improvement.

29 (b) If protests as to the necessity of a proposed local improve-

1 ment are made by owners of property that will bear 50 percent or more  
2 of the estimated cost of the improvement, the governing body may not  
3 proceed with the improvement until the objections have been reduced to  
4 less than 50 percent, except on approval of not fewer than three-  
5 fourths of the governing body.

6 (c) To the extent that the municipality does not prescribe a  
7 procedure for special assessments as permitted by this section, the  
8 municipality shall comply with the special assessment procedures set  
9 out in AS 29.46.030 - 29.46.100.

10 Sec. 29.46.030. CREATION OF DISTRICT. (a) When an improvement  
11 proposal is filed with the municipal clerk and presented to the gov-  
12 erning body, the municipality shall find by resolution or ordinance  
13 whether (1) the improvement requested is necessary and should be made,  
14 and (2) if by petition, the request has sufficient and proper peti-  
15 tioners. The findings under this section are conclusive.

16 (b) If the municipality approves an improvement proposal, it  
17 shall develop a proposed improvement plan including the total cost  
18 estimate and the percentage of the cost to be assessed against the  
19 benefited property. The improvement plan shall be filed with the  
20 municipal clerk.

21 (c) The governing body shall set a time for public hearing on  
22 the improvement plan and the period for filing objections to the plan.  
23 The governing body shall publish a notice of the hearing and of the  
24 period during which objections may be filed at least once a week for  
25 four consecutive weeks in a newspaper of general circulation if dis-  
26 tributed in the municipality and shall send notice by mail to every  
27 record owner of property in the special assessment district.

28 Sec. 29.46.040. RECORD OWNER. The person in whose name property  
29 is listed on the municipal property tax roll as owner is conclusively

1 presumed to be the legal owner of record. If the owner is unknown,  
2 the assessment roll may designate "unknown owner".

3 Sec. 29.46.050. OBJECTIONS AND REVISION. (a) Objections to an  
4 improvement plan may be filed during a period of 60 days after publi-  
5 cation of notice. The municipality may by resolution or ordinance  
6 approve the plan and order the improvement subject to the limitation  
7 of (b) of this section.

8 (b) If objections are made in writing during the period set for  
9 objections by the owners of property bearing 50 percent or more of the  
10 estimated total cost of the improvement, the governing body may not  
11 proceed with the improvement unless it revises the plan to meet the  
12 objections and the objections are reduced to less than 50 percent. A  
13 revised plan shall be approved and adopted as an original plan in  
14 accordance with AS 29.46.030.

15 Sec. 29.46.060. ASSESSMENT ROLL. (a) At any time after ap-  
16 proval of an improvement plan, the governing body shall assess the  
17 authorized percentage of the cost against property in the district  
18 included in the plan in proportion to the benefit received.

19 (b) The special assessment roll shall contain property descrip-  
20 tions, names of record owners, and assessment amounts.

21 (c) The governing body shall fix a time to hear objections to  
22 the roll. The municipal clerk shall send an assessment and hearing  
23 notice by mail to each record owner of an assessed property not less  
24 than 15 days before the hearing.

25 Sec. 29.46.070. HEARING AND SETTLEMENT. After the public hear-  
26 ing, the governing body shall correct errors and inequalities in the  
27 roll. If an assessment is increased, a new hearing shall be set and  
28 notice published, except that a new hearing and notice is not required  
29 if all record owners of property subject to the increased assessment

1 consent in writing to the increase. Objections to the increased  
2 assessment shall be limited to record owners of property on which the  
3 assessment was increased. When the roll is corrected, it shall be  
4 confirmed by resolution or ordinance.

5 Sec. 29.46.080. PAYMENT. (a) The governing body shall fix  
6 times of payment, penalties on delinquent payments, and the rate of  
7 interest on the unpaid balance of the assessment. Payment may be in  
8 one sum or by installments. If payment is to be in one sum, payment  
9 may not be required sooner than 60 days after mailing of the assess-  
10 ment statement. The entire assessment may be prepaid without interest  
11 or penalty within 30 days after mailing of the assessment statement,  
12 and thereafter the assessment may be prepaid in whole or in part with  
13 interest to the payment date.

14 (b) Within 30 days after fixing the time of payment the municipi-  
15 pal clerk shall mail a statement to the record owner of each property  
16 assessed. The statement designates the property, the assessment  
17 amount, method of payment, rate of interest on the unpaid balance of  
18 the assessment, the time of delinquency, and penalties on delinquent  
19 payments. Within five days after the statements are mailed, the clerk  
20 shall have notice published that the statements have been mailed.

21 (c) Assessments are liens on the property assessed and are prior  
22 and paramount to all liens except municipal tax liens. They may be  
23 enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of  
24 property tax liens.

25 Sec. 29.46.090. EXEMPTION. (a) The real property owned and  
26 occupied by a resident 65 years of age or over, or the spouse, widow,  
27 widower, or minor heir of the original applicant, on which is located  
28 only the permanent abode of the applicant that is a single-family  
29 residence, is exempt from (1) special sewer assessments levied by a

1 municipality after September 2, 1975, and (2) special water assess-  
2 ments levied by a municipality after September 2, 1975. Only one  
3 exemption may be granted with respect to the same property, and, if  
4 two or more persons are eligible for an exemption with respect to the  
5 same property, the parties shall decide between or among themselves  
6 which shall receive the benefit of the exemption. Real property may  
7 not be exempted under this subsection that the municipality deter-  
8 mines, after notice and hearing to the parties concerned, has been  
9 conveyed to the applicant primarily for the purpose of obtaining the  
10 exemption. The determination of the municipality is appealable under  
11 AS 44.62.560 - 44.62.570.

12 (b) An exemption may not be granted under this section except  
13 upon written application for the exemption on a form prescribed by the  
14 state assessor for use by local assessors and in accordance with the  
15 following requirements:

16 (1) The claimant must file the initial application during  
17 the period of time between the date the assessment roll is confirmed  
18 and the time of payment fixed by the governing body. Within one year  
19 after the date the assessment roll is confirmed the governing body for  
20 good cause shown may waive the claimant's failure to make timely  
21 initial application for the exemption and authorize the assessor to  
22 accept the application as if timely filed.

23 (2) A claimant receiving the exemption must file with the  
24 assessor by March 15 of each subsequent year a separate application  
25 proving eligibility as of January 1 in order to retain the exemption.  
26 Within the same year the assessor for good cause shown may waive the  
27 claimant's failure to make timely application and approve the applica-  
28 tion as if timely filed.

29 (3) If an application is filed within the required time

1 under this subsection and is approved by the governing body, the  
2 exemption shall be allowed in accordance with the provisions of this  
3 section. If a waiver under this subsection is granted and the appli-  
4 cation for exemption approved, the amount of any assessment, penalty,  
5 or interest that the claimant has already paid on the assessment shall  
6 be refunded to the claimant. The municipality may at any time require  
7 proof in the form considered necessary of the right and amount of an  
8 exemption claimed under this section.

9 (c) The state shall reimburse a municipality for the sewer and  
10 water assessment revenues that it would receive but for the operation  
11 of this section. Reimbursement under this subsection is a lien in  
12 favor of the state against the property exempted to the extent of the  
13 assessment against the property exempted. When properly recorded, the  
14 lien is prior and superior to other liens against the property except  
15 for property taxes or other special assessments and may be enforced by  
16 lien foreclosure. The lien becomes immediately due and payable

17 (1) upon sale or other transfer of the property except to a  
18 spouse, widow, widower, or minor heir; however, if the property is  
19 transferred to a minor heir the lien becomes due and payable on the  
20 date the minor heir reaches the age of 25 years;

21 (2) when property exempted under (a)(1) or (2) of this  
22 section receives more than one sewer connection or more than one water  
23 connection; or

24 (3) when the claimant fails to prove eligibility under  
25 (b)(2) of this section.

26 (d) This section applies to home rule and general law municipal-  
27 ities.

28 (e) In this section

29 (1) "minor heir" means a person who, at the time of trans-

1 fer of the property, has not attained the age of 19 years or who, if  
2 under 22 years of age, is a full-time student at an educational insti-  
3 tution or a member of the armed forces of the United States;

4 (2) "real property" includes, but is not limited to, mobile  
5 homes, whether classified as real or personal property for municipal  
6 tax purposes.

7 Sec. 29.46.100. REASSESSMENT. (a) The governing body shall  
8 within one year correct any deficiency in a special assessment found  
9 by a court. Notice and hearing must conform to the initial assessment  
10 procedures.

11 (b) Payments on the initial assessment are credited to the prop-  
12 erty upon reassessment. The reassessment becomes a charge upon the  
13 property notwithstanding failure to comply with any provision of the  
14 assessment procedure.

15 Sec. 29.46.110. ALLOWABLE COSTS. (a) When a special assessment  
16 district is created, there may be included in the assessments

17 (1) all of the cost of acquiring, installing, making, or  
18 constructing the local improvement;

19 (2) the costs of all engineering and surveying to be done  
20 in connection with creating the district or improvement;

21 (3) the cost of mailing and publishing notices;

22 (4) interest on interim financing;

23 (5) the cost of legal services and other expenses incurred  
24 in the formation of the special assessment district;

25 (6) the cost of completing the improvement and financing  
26 the improvement, including the issuance of bonds.

27 (b) The total amount of the assessment roll may not exceed  
28 actual costs, but actual costs may include reasonable estimates of the  
29 costs to be incurred in connection with issuance of bonds.

1           Sec. 29.46.120. OBJECTION AND APPEAL. (a) The validity of an  
2 assessment may not be contested by a person who did not file with the  
3 municipal clerk a written objection to the assessment roll before its  
4 confirmation.

5           (b) The decision of the governing body on an objection may be  
6 appealed to the superior court within 30 days after the date of con-  
7 firmation of the assessment roll. If no objection is filed or appeal  
8 taken within that time, the assessment procedure is considered valid  
9 in all respects.

10           Sec. 29.46.130. INTERIM FINANCING. (a) A municipality may  
11 provide by resolution or ordinance for the issuance of notes in pay-  
12 ment of the costs of a local improvement project, payable out of  
13 special assessments for the improvement. The notes shall bear inter-  
14 est at a rate or rates authorized by the resolution or ordinance, and  
15 shall be redeemed either in cash or bonds for the improvement project.

16           (b) Notes issued against assessments shall be claims against the  
17 assessments that are prior and superior to a right, lien or claim of a  
18 surety on the bond given to the municipality to secure the performance  
19 of its contract for a local improvement project, or to secure the  
20 payment of persons who have performed work or furnished materials  
21 under the contract.

22           (c) The municipal treasurer may accept notes against special  
23 assessments on conditions prescribed by the governing body in payment  
24 of

25                   (1) assessments against which the notes were issued in  
26 order of priority;

27                   (2) judgments rendered against property owners who have  
28 become delinquent in the payment of assessments; and

29                   (3) certificates of purchase when property has been sold

1 under execution or at tax sale for failure to pay the assessments.

2 Sec. 29.46.140. SPECIAL ASSESSMENT BONDS. (a) The municipality  
3 may by ordinance authorize the issuance and sale of special assessment  
4 bonds to pay all or part of the cost of an improvement in a special  
5 assessment district. The principal and interest of bonds issued shall  
6 be payable solely from the levy of special assessments against the  
7 property to be benefited. The assessments shall constitute a sinking  
8 fund for the payment of principal and interest on the bonds. The  
9 benefited property may be pledged by the governing body to secure a  
10 payment.

11 (b) On default in a payment due on a special assessment bond, a  
12 bondholder may enforce payment of principal, interest, and costs of  
13 collection in a civil action in the same manner and with the same  
14 effect as actions for the foreclosure of mortgages on real property.  
15 Foreclosure shall be against all property on which assessments are in  
16 default. The period for redemption is the same as for a mortgage  
17 foreclosure on real property.

18 (c) Before the governing body may issue special assessment  
19 bonds, it shall establish a guarantee fund and appropriate to the fund  
20 annually a sum adequate to cover a deficiency in meeting payments of  
21 principal and interest on bonds if the reason for the deficiency is  
22 nonpayment of assessments when due. Money received from actions taken  
23 against property for nonpayment of assessments shall be credited to  
24 the guarantee fund.

25 \* Sec. 13. AS 29 is amended by adding a new chapter to read:

26 CHAPTER 47. MUNICIPAL DEBT.

27 ARTICLE 1. REVENUE ANTICIPATION NOTES.

28 Sec. 29.47.010. BORROWING IN ANTICIPATION OF REVENUE. A  
29 municipality that is authorized to incur indebtedness may borrow money

1 to meet appropriations for any fiscal year in anticipation of the  
2 collection of the revenues for that year, but all debt so contracted  
3 shall be paid before the end of the next fiscal year. Negotiable or  
4 nonnegotiable revenue anticipation notes may be issued as evidence of  
5 the borrowing.

6 Sec. 29.47.020. ISSUANCE OF NOTES. A municipality may by ordi-  
7 nance or resolution authorize the issuance of revenue anticipation  
8 notes. The governing body may delegate to its chief fiscal officer  
9 the power to issue the notes from time to time under the terms and  
10 conditions of the ordinance or resolution that provides for the manner  
11 of their sale.

12 Sec. 29.47.030. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FED-  
13 ERAL GRANTS. (a) A municipality, on adoption of a long-range capital  
14 improvement budget by ordinance or resolution, may by resolution  
15 provide for negotiable or nonnegotiable revenue anticipation notes in  
16 an amount not to exceed the total amount of any state or federal  
17 grants finally committed for these projects. The notes mature no  
18 later than the end of the next fiscal year. The notes may be for  
19 single or multiple projects outlined in the adopted capital improve-  
20 ment budget.

21 (b) If the state or federal grants for capital improvement pro-  
22 jects have not been paid to the municipality before maturity of the  
23 notes issued in anticipation of the receipt of the revenue, the gov-  
24 erning body may issue new notes in order to meet payment of the notes  
25 then maturing or may renew the outstanding revenue anticipation notes.  
26 New notes issued or renewals of outstanding revenue anticipation notes  
27 mature not later than the end of the next fiscal year.

28 Sec. 29.47.040. PRIORITY OF REPAYMENT. The payment of the  
29 principal and interest on revenue anticipation notes is payable from

1 revenues, and their payment additionally shall be secured by a pledge  
2 of the full faith and credit of the municipality issuing them.

3 ARTICLE 2. BOND ANTICIPATION NOTES.

4 Sec. 29.47.080. BOND ANTICIPATION BORROWING. A municipality may  
5 borrow money in anticipation of the sale of general obligation and  
6 revenue bonds if

7 (1) the general obligation bonds to be sold have been  
8 authorized by ordinance and ratified by a majority vote at an elec-  
9 tion;

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

12 Sec. 29.47.090. ISSUANCE OF NOTES. The governing body shall  
13 issue negotiable or nonnegotiable notes for the amounts borrowed with  
14 a maturity date not to exceed one year from the date of issue. All  
15 notes and the interest on them are payable at fixed places on or  
16 before a fixed time from the proceeds of the sale of bonds in antici-  
17 pation of which the original note or notes were issued, unless the  
18 bonds have not been sold by the maturity date of the notes.

19 Sec. 29.47.100. ISSUANCE OF NEW NOTES. If the sale of the bonds  
20 has not occurred before the maturity of the notes issued in anticipa-  
21 tion of the sale, the governing body shall issue new notes in order to  
22 meet payment of the notes then maturing, or shall renew the outstand-  
23 ing bond anticipation notes. New notes issued or renewals of out-  
24 standing bond anticipation notes bear a maturity date not to exceed  
25 one year from the date of issue. Notes, new notes, and renewals of  
26 notes may not be outstanding for a total elapsed time of more than  
27 three years.

28 Sec. 29.47.110. REPAYMENT OF NOTES. Every note is payable from  
29 the proceeds of the sale of bonds that the notes anticipated or from

1 the proceeds of the sale of new bond anticipation notes.

2 Sec. 29.47.120. SECURITY. (a) Notwithstanding other provisions  
3 of this chapter as to payment of notes, notes issued in anticipation  
4 of the sale of general obligation bonds and the interest on them are  
5 secured by the full faith and credit of the municipality. The muni-  
6 cipality may levy ad valorem taxes for payment without limitation of  
7 rate or amount.

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

11 Sec. 29.47.130. LIMITATION. The total amount of notes issued  
12 and outstanding may at no time exceed the total amount of bonds autho-  
13 rized to be issued.

14 Sec. 29.47.140. USE OF PROCEEDS. The proceeds from the sale of  
15 notes shall be used only for the purposes for which the proceeds from  
16 the sale of bonds may be used, or to meet payment of outstanding bond  
17 anticipation notes.

18 ARTICLE 3. GENERAL OBLIGATION BONDS.

19 Sec. 29.47.180. GENERAL OBLIGATION BONDS. A municipality may  
20 acquire, construct, improve, and equip capital improvements and issue  
21 negotiable or nonnegotiable general obligation bonds for these pur-  
22 poses.

23 Sec. 29.47.190. VOTE AND NOTICE OF EXISTING INDEBTEDNESS RE-  
24 QUIRED. (a) A municipality may incur general obligation bond debt  
25 only after a bond authorization ordinance is approved by a majority  
26 vote at an election. Any municipal voter may vote in the bond elec-  
27 tion, except as otherwise provided by law.

28 (b) Before a general obligation bond issue election, the  
29 governing body shall have published a notice of the total existing

1 bond indebtedness at least once a week for three consecutive weeks.  
2 The first notice shall be published at least 20 days before the date  
3 of the election. A notice shall include

4 (1) the current total general obligation bonded indebted-  
5 ness, including authorized but unsold bonds of the municipality;

6 (2) the cost of the debt service on the current indebted-  
7 ness;

8 (3) the total assessed value of property in the municipal-  
9 ity.

10 Sec. 29.47.200. PAYMENT. (a) The full faith and credit of a  
11 municipality are pledged for the payment of principal and interest on  
12 general obligation bonds. The municipality may levy ad valorem taxes  
13 for payment without limitation of rate or amount to pay or secure the  
14 payment of the principal and interest on bonds, regardless of whether  
15 the bonds are in default or in danger of default.

16 (b) General obligation bonds issued for acquiring, constructing,  
17 improving and equipping a municipally owned utility or other revenue-  
18 generating enterprise may be additionally secured by a pledge of the  
19 revenue derived from operation. Bonds so secured are not subject to a  
20 debt limitation imposed by a home rule charter. This subsection  
21 applies to home rule and general law municipalities.

#### 22 ARTICLE 4. REVENUE BONDS.

23 Sec. 29.47.240. REVENUE BONDS. (a) A municipality may issue  
24 negotiable or nonnegotiable revenue bonds for a public enterprise or  
25 public corporation of the municipality where the only security is the  
26 revenue of the public enterprise or corporation.

27 (b) A municipality may issue its revenue bonds to finance the  
28 purchase of residential mortgage loans. The revenue bonds issued  
29 under this subsection are payable solely from the principal and inter-

1 est of the mortgage loans and from other amounts pledged by the muni-  
2 cipality, except the pledge of revenues derived from taxes. Revenue  
3 bonds issued under this subsection do not constitute a general obli-  
4 gation of the municipality.

5 Sec. 29.47.250. NO ELECTION REQUIRED. An election is not re-  
6 quired to authorize the issuance and sale of revenue bonds, unless  
7 otherwise provided by ordinance.

8 Sec. 29.47.260. CONSTRUCTION. The prohibitions of AS 37.10.085  
9 do not apply to the issuance of revenue bonds or the use of proceeds  
10 from revenue bonds by a home rule or general law municipality.

11 ARTICLE 5. REFUNDING BONDS.

12 Sec. 29.47.300. AUTHORIZATION. If a municipality has outstand-  
13 ing general obligation or revenue bonds and the governing body deter-  
14 mines that it would be financially advantageous to refund the bonds,  
15 the municipality may provide by ordinance or resolution for the issu-  
16 ance of negotiable or nonnegotiable

- 17 (1) general obligation refunding bonds; or  
18 (2) revenue refunding bonds.

19 Sec. 29.47.310. EFFECT OF REFUNDING BONDS. The refunding bonds  
20 may take up and refund all or part of outstanding bonds at or before  
21 their maturity or redemption date. The governing body may include  
22 various series and issues of bonds in a single issue of refunding  
23 bonds.

24 Sec. 29.47.320. NO ELECTION REQUIRED. An election is not re-  
25 quired to authorize the issuance and sale of refunding bonds. Their  
26 issuance may be authorized and all proceedings with reference to them  
27 prescribed by ordinance. However, when it is desirable to use general  
28 obligation bonds to refund a revenue bond issue, the governing body  
29 shall call an election on the question.

1           Sec. 29.47.330. PAYMENT OF REFUNDING BONDS. General obligation  
2 refunding bonds are payable according to AS 29.47.200. Revenue re-  
3 funding bonds are payable according to AS 29.47.240.

4           Sec. 29.47.340. SALE OF REFUNDING BONDS. General obligation or  
5 revenue refunding bonds may, at the discretion of the governing body,  
6 be exchanged for the bonds being refunded, or may be sold at public or  
7 private sale. They may be issued and delivered at any time before the  
8 date of maturity or redemption of the refunded bonds.

9                           ARTICLE 6. MISCELLANEOUS PROVISIONS.

10           Sec. 29.47.390. OTHER MUNICIPAL FINANCING. (a) A municipality  
11 may authorize by ordinance or resolution the issuance of negotiable or  
12 nonnegotiable revenue bonds to finance any project that serves a  
13 public purpose, and the bonds shall be secured and payable from any  
14 source except revenues, including tax revenue, of the municipality.

15           (b) Bonds issued under this section are not a debt or liability  
16 of the municipality and do not create or constitute an indebtedness,  
17 liability, or obligation of the municipality, nor do they constitute a  
18 pledge of faith, credit, or taxing power of the municipality. Each  
19 bond must contain on its face a statement that the municipality is not  
20 obligated to pay the principal or the interest on the bonds except  
21 from those sources indicated, and that neither the faith and credit  
22 nor the taxing power of the municipality is pledged to the payment of  
23 principal or interest on the bond.

24           (c) A municipality may

25                           (1) loan the proceeds of the bonds issued under this sec-  
26 tion;

27                           (2) pledge, mortgage or assign money, leases, agreements,  
28 property, or other assets of the project being financed;

29                           (3) enter into covenants and agreements concerning bonds

1 issued under this section that the municipality determines to be de-  
2 sirable;

3 (4) provide for any matter that affects the security of the  
4 bonds.

5 (d) In this section

6 (1) "bonds" means bonds, notes, or other evidence of in-  
7 debtedness;

8 (2) "project" includes but is not limited to commercial,  
9 manufacturing, agricultural, industrial, residential housing, recrea-  
10 tion, tourism, and medical projects and programs.

11 Sec. 29.47.400. SALE. Bonds and notes issued under this chapter  
12 may be sold at either public or private sale by the municipality in  
13 the manner and at the price it determines.

14 Sec. 29.47.410. FORMS AND TERMS. The municipality may by ordi-  
15 nance or resolution fix the date, denominations, maturities, rate  
16 rates of interest, redemption terms, registration privileges, manner  
17 of execution, signatures required, purchase price, manner of sale, and  
18 other requirements for issuing bonds or notes under this chapter. If  
19 an official whose signature appears on the bonds or coupons ceases to  
20 be an official before delivery of the bonds, the signature of the  
21 former official is valid as if the former official had remained in  
22 office until delivery.

23 Sec. 29.47.420. INTEREST RATE. The interest rate payable on a  
24 bond or note issued under this chapter shall be determined by the  
25 municipality and is not subject to the usury rate limitations of  
26 AS 45.45.010.

27 Sec. 29.47.430. REDEMPTION BEFORE MATURITY. A bond or note  
28 issued under this chapter may be made subject to redemption before  
29 maturity as stated in the authorization or in the bond or note.

1           Sec. 29.47.440. BOROUGH INDEBTEDNESS. (a) A borough may incur  
2 indebtedness

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

4           (2) on a nonareawide basis for functions performed only in  
5 the borough area outside all cities; or

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

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

13           (c) If the bonded debt to be incurred by a borough is an area-  
14 wide debt, the vote is areawide. If the full faith and credit of the  
15 entire borough is pledged for the payment of the debt of the borough  
16 area outside all cities or of a service area, an areawide election is  
17 held and the proposition must pass both areawide and in the area that  
18 will benefit from the improvement. If the bonded indebtedness to be  
19 incurred is limited to the borough area outside all cities, the vote  
20 is limited to voters outside all cities. If the indebtedness to be  
21 incurred is limited to a service area, the vote is limited to voters  
22 in the service area. Only the full faith and credit of the area  
23 voting on the indebtedness is pledged for the payment of the debt.

24           (d) The indebtedness of a municipality reclassified under  
25 AS 29.04.040 - 29.04.060 is not affected by reclassification. All  
26 property in a municipality that is reclassified remains subject to  
27 taxation to amortize bonded or other indebtedness affecting the muni-  
28 cipality and authorized on the effective date of reclassification.

29           Sec. 29.47.450. SERVICE AREA DEBT. The indebtedness of a ser-

1 vice area acquired under AS 29.47.440 remains the indebtedness of the  
2 area that incurred the debt, notwithstanding a subsequent court deter-  
3 mination that the service area was not validly formed under law or by  
4 virtue of a defect in the proceedings creating the service area. All  
5 property in the service area remains subject to taxation to pay the  
6 bonded indebtedness.

7 \* Sec. 14. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 55. MUNICIPAL PROGRAMS.

9 Sec. 29.55.010. CREATION OF LOCAL HISTORICAL DISTRICT COMMIS-  
10 SIONS. The governing body of a municipality may establish a local  
11 historical district commission or designate the planning commission or  
12 itself to serve as the historical district commission.

13 Sec. 29.55.020. ESTABLISHMENT OF HISTORICAL DISTRICTS. (a) In  
14 addition to existing municipal authority providing for the preserva-  
15 tion, protection, and maintenance of historic sites, the local histor-  
16 ical district commission, in consultation with the Historic Sites  
17 Advisory Committee in the Department of Natural Resources, may estab-  
18 lish historical districts within the boundaries of the municipality.

19 (b) A historical district shall be a reasonably compact area of  
20 historical significance in which two or more structures important in  
21 state or national history, and related by physical proximity or his-  
22 torical association, are located. For purposes of this section,  
23 "structures important in state or national history" means properties  
24 recommended by historical district commissions that are listed in the  
25 National Register of Historic Places or are characteristic of the  
26 Russian American period before October 18, 1867, the early territorial  
27 period before 1930, or early Native heritage, reflecting the indi-  
28 genous characteristics of Native culture in Alaska. On recommendation  
29 of the governing body of a municipality and the Historic Sites Advi-

1 sory Committee, the Department of Natural Resources may by regulation  
2 formulate additional criteria for the establishment of historical  
3 districts not inconsistent with this subsection.

4 (c) The establishment of a historical district under this sec-  
5 tion shall be consistent with any applicable comprehensive plan for  
6 the municipality.

7 \* Sec. 15. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 60. STATE PROGRAMS.

9 ARTICLE 1. MUNICIPAL TAX RESOURCE EQUALIZATION.

10 Sec. 29.60.010. STATE EQUALIZATION OF TAX RESOURCES FOR MUNICI-  
11 PAL SERVICES. (a) During each fiscal year the department shall  
12 compute an equalization entitlement for municipal services provided by  
13 a taxing unit.

14 (b) The equalization entitlement computed for a taxing unit is  
15 based on the population, relative ability to generate revenue, and  
16 local tax burden of the taxing unit and is determined by the applica-  
17 tion of the formula

18 Entitlement = P x R

19 where P = population, and

20 R = millage rate equivalent, determined by dividing the sum  
21 of the locally generated revenue of the taxing unit by one-tenth of  
22 one percent of the full and true value of assessed property of the  
23 taxing unit determined under AS 29.60.030(d); however, the per capita  
24 property value used under this subsection may not be less than 15  
25 percent of the statewide average per capita full and true assessed  
26 property value.

27 (c) For purposes of this section, locally generated revenue

28 (1) includes

29 (A) the actual revenue derived from the levy and

1 collection of local taxes in the taxing unit for municipal ser-  
2 vices during the preceding fiscal year of the taxing unit;

3 (B) motor vehicle payments received by the municipal-  
4 ity during the preceding fiscal year under AS 28.10.431;

5 (C) revenue from fees, rentals, leases, penalties,  
6 licenses or permits received during the preceding fiscal year by  
7 the municipality for a function or service over which it has con-  
8 trol, including revenues derived from parks and recreation ser-  
9 vices, mass transit, offstreet parking, and garbage and solid  
10 waste disposal services;

11 (D) special assessments received during the preceding  
12 fiscal year; and

13 (E) payments received by a municipality from a utility  
14 that are in place of taxes levied and collected by the municipal-  
15 ity;

16 (2) excludes

17 (A) revenue derived from the levy and collection of  
18 municipal taxes and appropriated for the operating expenses and  
19 debt service of utilities;

20 (B) revenue from interest earned on investments and  
21 from the sale and lease of land or equipment; and

22 (C) all other revenue from whatever service derived.

23 Sec. 29.60.020. DETERMINATION OF POPULATION. For purposes of  
24 AS 29.60.010 - 29.60.080, the population of a taxing unit shall be  
25 determined annually by the latest figures of the United States Bureau  
26 of the Census or other population data that in the judgment of the  
27 department is reliable.

28 Sec. 29.60.030. DETERMINATION OF MILLAGE RATE EQUIVALENT. (a)  
29 The department may require a municipality to return a certification,

1 signed by the municipal treasurer or manager and the mayor, that pro-  
2 vides an estimate of the locally generated revenue received by the  
3 municipality during the preceding fiscal year.

4 (b) By October 15 of each year, the department shall make an  
5 initial determination of the millage rate equivalent of each taxing  
6 unit to be used for computing and distributing equalization entitle-  
7 ments for the current fiscal year under AS 29.60.010 - 29.60.080. The  
8 department shall base the initial determination on the estimates in  
9 the certification returned by a municipality under (a) of this sec-  
10 tion.

11 (c) As early as possible, but not later than December 15 of each  
12 year, the department shall make a final determination of the millage  
13 rate equivalent of each taxing unit to use to compute and distribute  
14 equalization entitlements under AS 29.60.010 - 29.60.080. The depart-  
15 ment shall base the determination on audits, financial statements and  
16 other financial reports prepared and submitted by a municipality. The  
17 department shall adjust the locally generated revenue reported by a  
18 municipality to exclude the municipal revenue claimed that does not  
19 qualify for inclusion in or recognition as locally generated revenue  
20 for municipal purposes under AS 29.60.010(c)(1). The adjustment shall  
21 be made by deducting from total revenue claimed by the municipality  
22 the amount of the department's estimate of revenue that is not recog-  
23 nized for municipal purposes.

24 (d) The full and true assessed property value shall be deter-  
25 mined by the department in the manner provided for the computation of  
26 state aid to education under AS 14.17.140. When the determination of  
27 locally generated revenue includes revenue of a utility received under  
28 AS 29.60.010(c)(1)(E), the full and true assessed property value shall  
29 include the computed assessed value of the utility, determined by

1 dividing the amount of the payment in place of taxes made by the  
2 utility by the millage rate that would apply to the utility if the  
3 utility were subject to levy and collection of taxes under AS 29.45.

4 (e) In addition to the computation for municipalities that levy  
5 and collect a property tax, the department shall determine an esti-  
6 mated full and true assessed property value under (d) of this section  
7 for

8 (1) each municipality that is a school district and that  
9 does not levy and collect a property tax;

10 (2) each second class city with a population of 750 or more  
11 persons; however, a computation is not required under this paragraph  
12 more often than once during a period of three successive calendar  
13 years; and

14 (3) all other second class cities, by determining the  
15 average per capita full and true assessed property value of all cities  
16 having a population of less than 750 persons in which an assessment  
17 has been completed by a municipality or for which a determination is  
18 not made under (1) or (2) of this subsection.

19 (f) The department shall annually compute a statewide average  
20 per capita full and true assessed property value.

21 Sec. 29.60.040. REPORTS. A payment of an equalization entitle-  
22 ment may not be made to a municipality under AS 29.60.010 - 29.60.080  
23 until the municipality has submitted its certificate of estimated  
24 revenue and its financial report to the department for the fiscal year  
25 preceding the year for which the equalization entitlement is sought,  
26 together with a budget for the municipality's current fiscal year.  
27 The financial report shall include a listing of general revenue col-  
28 lected from taxes levied and assessed and any other revenue that, in  
29 the opinion of the municipal officials, is eligible for inclusion in

1 computations of the locally generated revenue of the taxing unit.

2 Sec. 29.60.050. LIMITATION ON COMPUTATION AND USE OF PAYMENTS.

3 (a) An equalization entitlement generated by the tax levy of a taxing  
4 unit may be used only for authorized expenditures of that taxing unit,  
5 but up to 15 percent of the payment of an equalization entitlement  
6 generated by areawide revenue of a municipality may be used by the  
7 municipality for areawide or nonareawide purposes at the discretion of  
8 its governing body. This subsection applies to home rule and general  
9 law municipalities.

10 (b) An equalization entitlement determined with reference to  
11 revenue other than revenue obtained from the levy and collection of  
12 taxes may be used for areawide or nonareawide purposes, at the discre-  
13 tion of the governing body.

14 Sec. 29.60.060. TAX EQUALIZATION ACCOUNT. The tax equalization  
15 account is established. Money to carry out the provisions of AS 29.-  
16 60.010 - 29.60.080 shall be allocated by the department to the  
17 account. The amount allocated to the account shall be fully distri-  
18 buted by the department as payments to municipalities to fulfill each  
19 share authorized under AS 29.60.010. The amount allocated to the  
20 account shall be distributed by the department pro rata among eligible  
21 municipalities.

22 Sec. 29.60.070. ADMINISTRATION. (a) The department may adopt  
23 regulations necessary to implement AS 29.60.010 - 29.60.080. The  
24 regulations shall include, among other provisions,

25 (1) procedures and filing dates for submitting certifica-  
26 tion and financial reports;

27 (2) procedures for obtaining information required to com-  
28 pute and determine the municipality's millage rate equivalent; and

29 (3) procedures by which the department shall notify a

1 municipality in writing of the reasons for a proposed disallowance or  
2 adjustment of any factor bearing upon the determination of the muni-  
3 cipality's entitlement and by which the municipality will be provided  
4 reasonable time in which to respond or to challenge the department's  
5 determination.

6 (b) The department shall make reasonable efforts to advise and  
7 assist municipalities in collecting information and completing reports  
8 necessary for the determination of entitlements under AS 29.60.010 -  
9 29.60.080.

10 (c) The department shall, by regulation, classify for inclusion  
11 or exclusion as a component of a municipality's millage rate equiva-  
12 lent under AS 29.60.010 any tax revenue appropriated for a utility not  
13 included in the definition set out in AS 29.60.080(2).

14 Sec. 29.60.080. DEFINITIONS. In AS 29.60.010 - 29.60.080

15 (1) "taxing unit" means a municipality and

16 (A) in a borough or unified municipality, a service  
17 area or the entire area outside cities;

18 (B) in a city, a differential tax zone;

19 (2) "utility" means electric, water, sewer, gas heat, tele-  
20 phone, or refuse and garbage collection service.

21 ARTICLE 2. STATE AID FOR MISCELLANEOUS PURPOSES.

22 Sec. 29.60.100. REVENUE SHARING PAYABLE. In addition to the  
23 equalization entitlements paid under AS 29.60.010 - 29.60.080, during  
24 each fiscal year the department shall pay aid

25 (1) to a municipality or other eligible recipient that has  
26 the power to provide the services described in AS 29.60.110 - 29.60.-  
27 130 and exercises the power in the manner required by AS 29.60.100 -  
28 29.60.180;

29 (2) to an unincorporated community under AS 29.60.140.

1           Sec. 29.60.110. STATE AID TO MUNICIPALITIES FOR ROADS. (a) The  
2 department shall pay to a municipality that has power to provide for  
3 road maintenance and exercises that power, \$2,500 a mile for each mile  
4 of road, street, or highway maintained by the municipality, excluding  
5 (1) the official state highway system, (2) roads, streets, or highways  
6 not dedicated to public use, (3) roads, streets, or highways main-  
7 tained under the local service road program (AS 19.30.111 - 19.30.-  
8 251), and (4) alleyways, in accordance with regulations adopted by the  
9 Department of Transportation and Public Facilities. A payment may not  
10 be made under this subsection for maintenance of a road that is not  
11 used by automotive equipment.

12           (b) A frozen waterway and a connection from an inhabited area to  
13 a waterway that may be safely used for public transportation by auto-  
14 motive equipment and is so used during a portion of a year is eligible  
15 for a payment of \$1,500 per mile if the waterway and connection are  
16 maintained during the period of use by a municipality or combination  
17 of municipalities. The department, after consultation with the De-  
18 partment of Transportation and Public Facilities, shall determine  
19 which waterways and connections qualify and, where the waterways or  
20 connections lie outside the corporate limits of a municipality, with  
21 municipalities shall receive the payments under this subsection,  
22 unless the municipalities involved have agreed in writing to a partic-  
23 ular distribution.

24           Sec. 29.60.120. STATE AID TO MUNICIPALITIES AND OTHER ELIGIBLE  
25 RECIPIENTS FOR HEALTH FACILITIES AND HOSPITALS. (a) The department  
26 shall pay

27           (1) to a municipality that has the power to provide hospi-  
28 tal facilities and services and that exercises that power, \$2,000 per  
29 bed for each bed actually used for patient care, limited to the number

1 of beds provided for in the construction design of the hospital, or  
2 \$250,000 a hospital for those hospitals with 10 or more beds, or  
3 \$50,000 a hospital for those hospitals with less than 10 beds, as the  
4 municipality may elect; money received under this paragraph may be  
5 used only for hospitals and shall be apportioned among qualifying  
6 hospitals as the municipality determines;

7 (2) on the basis set out in (1) of this subsection to a  
8 municipality for a nonprofit hospital not operated by a municipality  
9 if the municipality first certifies to the department that the non-  
10 profit hospital is in compliance with all standards for hospitals that  
11 have been adopted by the municipality; money may not be paid on behalf  
12 of a nonprofit hospital without this certification; payments to the  
13 municipality shall be transferred to the nonprofit hospital in accor-  
14 dance with the basis by which the payment was generated by the hospi-  
15 tal, and shall be applied to the annual cost of operation and mainte-  
16 nance of the hospital or for the provision of health care service at  
17 the hospital as the directors of the hospital determine;

18 (3) to a municipality in which a health facility is oper-  
19 ated, \$2,000 per bed for each bed actually used for patient care,  
20 limited to the number of beds provided for in the construction design  
21 of the health facility, or \$8,000 per health facility as the muni-  
22 cipality determines.

23 (b) A hospital may not receive payment under both (a)(1) and  
24 (a)(2) of this section.

25 (c) Money received by a municipality under (a)(3) of this sec-  
26 tion shall be used for expenses of health services or operation and  
27 maintenance of health facilities as the municipality determines.

28 (d) Before money may be distributed under this section, the  
29 commissioner of health and social services shall certify to the com-

1           missioner of community and regional affairs that any accumulation of  
2           assets by nonprofit corporations or other recipients under this sec-  
3           tion is dedicated irrevocably to a public purpose.

4           (e) Subsections (a) and (c) of this section apply to home rule  
5           and general law municipalities.

6           Sec. 29.60.130. STATE AID TO VOLUNTEER FIRE DEPARTMENTS NOT IN  
7           ORGANIZED MUNICIPALITY. (a) The department shall pay to a volunteer  
8           fire department registered with the state fire marshal and serving an  
9           area not in an organized municipality a sum for protection purposes  
10          equal to \$10 per capita for the population served by the fire depart-  
11          ment, as determined by the state fire marshal.

12          (b) A grant shall be made under (a) of this section to facili-  
13          tate the organization of a volunteer fire department in an area not in  
14          an organized municipality, upon application of the proposed fire  
15          protection group to the state fire marshal and upon approval of appli-  
16          cations according to standards of organization and service prescribed  
17          by regulations adopted by the state fire marshal.

18          Sec. 29.60.140. STATE AID TO UNINCORPORATED COMMUNITIES. (a)  
19          The Department of Community and Regional Affairs shall pay to each  
20          unincorporated community an entitlement of \$25,000 each fiscal year to  
21          be used for a public purpose. The Department of Community and Re-  
22          gional Affairs with advice from the Department of Law shall determine  
23          whether there is in each unincorporated community an incorporated  
24          nonprofit entity or a Native village council that will agree to re-  
25          ceive and spend the entitlement. If there is more than one qualified  
26          entity in an unincorporated community, the Department of Community and  
27          Regional Affairs shall pay the money under the entitlement to the  
28          entity that the department finds most qualified to receive and spend  
29          the money. The Department of Community and Regional Affairs may not

1 pay money under an entitlement to a Native village council unless the  
2 council waives immunity from suit for claims arising out of activities  
3 of the council related to the entitlement. A waiver of immunity from  
4 suit under this subsection must be on a form provided by the Depart-  
5 ment of Law. If there is no qualified incorporated nonprofit entity  
6 or Native village council in an unincorporated community that is  
7 willing to receive money under an entitlement, the entitlement for  
8 that unincorporated community may not be paid. Neither this sub-  
9 section nor any action taken under it enlarges or diminishes the  
10 governmental authority or jurisdiction of a Native village council.

11 (b) In this section "unincorporated community" means a place in  
12 the unorganized borough that is not incorporated as a city and in  
13 which 25 or more persons reside as a social unit.

14 Sec. 29.60.150. POPULATION DETERMINATION. For purposes of  
15 AS 29.60.100 - 29.60.180, population shall be determined by the latest  
16 figures of the United States Bureau of the Census or other population  
17 data that in the judgment of the department is reliable.

18 Sec. 29.60.160. AREA COST-OF-LIVING DIFFERENTIAL. (a) Payments  
19 to a municipality or other eligible recipient under AS 29.60.110 -  
20 29.60.120 shall reflect area cost-of-living differentials. Payments  
21 shall be based on the sum of per capita, per mile and per bed or  
22 facility grants due each municipality or other recipient multiplied by  
23 the appropriate area cost-of-living differential. The area cost-of-  
24 living differential for each recipient shall be determined annually by  
25 election district under the provisions of AS 39.27.030. Application  
26 of the area cost-of-living differential may not result in distribution  
27 of an amount less than the amount of the payment determined without  
28 reference to application of this section.

29 (b) The election districts used to establish area cost-of-living

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1 differentials under (a) of this section are those designated by the  
2 proclamation of reapportionment and redistricting of December 7, 1961,  
3 and retained for the house of representatives by proclamation of the  
4 governor September 3, 1965.

5 Sec. 29.60.170. MISCELLANEOUS SERVICES ACCOUNT. The miscella-  
6 neous services account is established. Money to carry out the provi-  
7 sions of AS 29.60.100 - 29.60.180 shall be allocated by the department  
8 to the account in accordance with AS 29.60.280. If amounts in the  
9 account are insufficient to pay each municipality's or other recip-  
10 ient's share authorized under AS 29.60.100 - 29.60.180, the amounts  
11 that are available shall be distributed pro rata among eligible muni-  
12 cipalities and other recipients.

13 Sec. 29.60.180. REGULATIONS. The department shall adopt regula-  
14 tions necessary to carry out the purposes of AS 29.60.100 - 29.60.180.  
15 The regulations shall include minimum standards required to qualify a  
16 municipality or other recipient for payments for each service. The  
17 department may require a municipality or other recipient to submit a  
18 performance report adequate to demonstrate to the department that a  
19 service for which payment is requested under AS 29.60.100 - 29.60.180  
20 was performed by the municipality or other recipient and meets minimum  
21 standards of service prescribed by regulation.

22 ARTICLE 3. STATE AID FOR HOSPITAL AND  
23 HEALTH FACILITY CONSTRUCTION.

24 Sec. 29.60.230. STATE AID FOR HOSPITAL AND HEALTH FACILITY CON-  
25 STRUCTION. (a) If construction of a hospital began after January 1,  
26 1968, or if construction of a health facility began after January 1,  
27 1968, and before July 1, 1980, and state matching aid for construction  
28 approved for payment to a municipality or other hospital or health  
29 facility sponsor constitutes less than 25 percent of the total project

1 cost, the department shall pay to the municipality or other hospital  
2 or health facility sponsor each fiscal year \$2,500 a bed for the  
3 maximum number of beds provided for in the construction design of the  
4 hospital or health facility or five percent of the total project cost,  
5 whichever is greater. State aid provided for in this section shall  
6 continue until the municipality or other hospital or health facility  
7 sponsor has received an amount that, combined with state matching  
8 money for construction of the hospital or health facility, equals 25  
9 percent of the total project cost. Money received for construction  
10 may not be used for any other purpose.

11 (b) In this section "total project cost" means

12 (1) costs directly related to the project; and

13 (2) the total of all costs of financing and carrying out  
14 the project, including but not limited to,

15 (A) the costs of all necessary studies, surveys, plans  
16 and specifications, architectural, engineering or other special  
17 services, acquisition of real property, site preparation and  
18 development, purchase, construction, reconstruction and improve-  
19 ment of real property, and the acquisition of machinery and  
20 equipment as may be necessary in connection with the project;

21 (B) an allocable portion of the administrative and  
22 operating expenses of the municipality or other hospital or  
23 health facility sponsor;

24 (C) the cost of financing the project, including  
25 interest on bonds issued to finance the project; and

26 (D) the cost of other items, including any indemnity  
27 and surety bonds and premiums on insurance, legal fees, fees and  
28 expenses of trustees, depositaries, financial advisors, and  
29 paying agents for the bonds issued as the issuer considers neces-

1 sary.

2 (c) This section applies to home rule and general law municipal-  
3 ities.

4 Sec. 29.60.240. HOSPITAL AND HEALTH FACILITY CONSTRUCTION ASSIS-  
5 TANCE ACCOUNT. The hospital and health facility construction assis-  
6 tance account is established. Money to carry out the provisions of  
7 AS 29.60.230 - 29.60.240 shall be allocated by the department to the  
8 account in accordance with AS 29.60.280. If amounts in the account  
9 are insufficient to pay each recipient's share authorized under  
10 AS 29.60.230 - 29.60.240, the amounts that are available shall be  
11 distributed pro rata among eligible recipients.

12 ARTICLE 4. ADMINISTRATION OF STATE AID PROGRAMS.

13 Sec. 29.60.280. ALLOCATION AND DISTRIBUTION. (a) Each year,  
14 the department shall allocate money appropriated to the accounts  
15 established in AS 29.60.060, 29.60.170, and 29.60.240 in the amounts  
16 determined by the legislature.

17 (b) Money in the miscellaneous services account established in  
18 AS 29.60.170 that exceeds the amount required to fully fund distribu-  
19 tions authorized by AS 29.60.100 - 29.60.180 shall be reallocated to  
20 the tax equalization account established in AS 29.60.060 and distri-  
21 buted according to the provisions of AS 29.60.010 - 29.60.080.

22 (c) Money in the hospital and health facility construction  
23 assistance account established in AS 29.60.240 that exceeds the amount  
24 required to fully fund distributions authorized by AS 29.60.230 -  
25 29.60.240 shall be reallocated to the tax equalization account estab-  
26 lished in AS 29.60.060 and distributed according to the provisions of  
27 AS 29.60.010 - 29.60.080.

28 Sec. 29.60.290. QUALIFICATION FOR MINIMUM PAYMENT. (a) A  
29 municipality qualifying for an entitlement under AS 29.60.010 - 29.60.080.

1 60.080 or 29.60.100 - 29.60.180 shall receive a minimum payment of  
2 \$25,000 plus an area cost-of-living differential for each fiscal year  
3 if

4 (1) the municipality has conducted a regular election  
5 during the fiscal year preceding the year for which payment of an  
6 entitlement is authorized by AS 29.60.010 - 29.60.080 or 29.60.100 -  
7 29.60.180 and has reported the results of the election to the commis-  
8 sioner;

9 (2) regular meetings of the governing body are held in the  
10 municipality during the fiscal year preceding the year for which  
11 payment of an entitlement is authorized by AS 29.60.010 - 29.60.080 or  
12 29.60.100 - 29.60.180 and a record of the proceedings is maintained;

13 (3) a municipal budget has been adopted for the fiscal year  
14 during which payment of an entitlement is authorized by AS 29.60.010 -  
15 29.60.080 or 29.60.100 - 29.60.180 and an audit or financial statement  
16 for the preceding fiscal year has been prepared and furnished to the  
17 department in accordance with AS 29.20.640(a); and

18 (4) local ordinances adopted by the municipality have been  
19 codified in accordance with AS 29.25.050.

20 (b) The area cost-of-living differential payable to each munici-  
21 pality under this section shall be determined annually by election  
22 district under the provisions of AS 39.27.030. Except as provided in  
23 AS 29.60.300, application of the area cost-of-living differential may  
24 not result in a payment that is less than the minimum payment deter-  
25 mined under (a) of this section. For purposes of this subsection, the  
26 election districts used are those designated by the proclamation of  
27 reapportionment and redistricting of December 7, 1961, and retained  
28 for the house of representatives by proclamation of the governor  
29 September 3, 1965.

1 (c) The department shall pay to each municipality eligible to  
2 receive a minimum payment under this section an amount equal to the  
3 difference between the minimum payment determined under (a) and (b) of  
4 this section and the sum of the amounts payable for the same fiscal  
5 year under AS 29.60.010 - 29.60.080 and 29.60.100 - 29.60.180.

6 (d) A payment under this section may be prorated and reduced  
7 under AS 29.60.300.

8 (e) Payments under this section shall be made from the money  
9 allocated to the tax equalization account established in AS 29.60.060.

10 Sec. 29.60.300. PRORATION OF PAYMENTS. (a) Payments under  
11 AS 29.60.290 and 29.60.010 - 29.60.180 shall equal the amount allo-  
12 cated to the tax equalization account (AS 29.60.060), adjusted in  
13 accordance with AS 29.60.280.

14 (b) Adjustments of payments shall be determined by prorating  
15 amounts payable under AS 29.60.290 and amounts payable under AS 29.-  
16 60.010 - 29.60.180 by a factor that, when applied, reduces all pay-  
17 ments in equal proportion so that payment under AS 29.60.290 and  
18 payments under AS 29.60.010 - 29.60.180 equal the amount allocated to  
19 the tax equalization account established in AS 29.60.060.

20 ARTICLE 5. MUNICIPAL ASSISTANCE.

21 Sec. 29.60.350. MUNICIPAL ASSISTANCE FUND. (a) There is estab-  
22 lished in the department the municipal assistance fund. The legisla-  
23 ture may appropriate to the municipal assistance fund during each  
24 fiscal year an amount equal to or greater than 30 percent of the  
25 income tax revenue received by the state under AS 43.20.011(e) for the  
26 previous fiscal year.

27 (b) The department shall distribute money from the municipal  
28 assistance fund to each municipality on an annual basis as provided in  
29 AS 29.60.360 and 29.60.370. A municipality may not receive payment

1 until it submits to the department a resolution approved by the gov-  
2 erning body of the municipality that requests the money. Distribution  
3 of money from the municipal assistance fund to a municipality with a  
4 fiscal year beginning on January 1 shall be made on February 1 of the  
5 state fiscal year for which the appropriation to the fund is made.  
6 Distribution of money from the municipal assistance fund to all other  
7 municipalities shall be made on June 1 of the state fiscal year for  
8 which the appropriation to the fund is made. A municipality that  
9 incorporates after December 31 of a state fiscal year is not eligible  
10 for a distribution under this section until the following state fiscal  
11 year.

12 Sec. 29.60.360. BASE AMOUNT OF ASSISTANCE. (a) The base amount  
13 to be distributed from the municipal assistance fund to each munici-  
14 pality for the fiscal year shall be the amount received by the munici-  
15 pality during fiscal year 1978 under AS 43.70.080. A city incor-  
16 porated within a borough after June 30, 1977, shall receive as a base  
17 amount a share of the amount distributed to the borough in which it is  
18 located based on the ratio of population in the city to the total  
19 population in the borough. A city incorporated outside a borough  
20 after June 30, 1977, shall receive as a base amount the amount re-  
21 ceived by the city in the state most closely approximating it in  
22 population at the time of its incorporation. A borough incorporated  
23 after June 30, 1977, shall receive as a base amount the amount re-  
24 ceived by the borough in the state most closely approximating it in  
25 population at the time of its incorporation.

26 (b) If the amount appropriated to the municipal assistance fund  
27 by the legislature during a fiscal year is insufficient for distri-  
28 bution of the full base amount to each municipality, the department  
29 shall prorate the amount available for distribution on the basis of

1 amounts received during the fiscal year 1978 under AS 43.70.080.

2 Sec. 29.60.370. INCREASED ASSISTANCE. (a) If the amount in the  
3 municipal assistance fund at the time of distribution exceeds the base  
4 amount to be distributed under AS 29.60.360, the excess amount shall  
5 be distributed to each municipality on the basis of population.

6 Population for the purpose of this section shall be as certified by  
7 the commissioner of community and regional affairs. In determining  
8 the population of a borough, the population of all cities in the  
9 borough shall be deducted from the total population of the borough.

10 (b) The intent of (a) of this section is that a municipality  
11 that levies property taxes reduce those levies in reasonable propor-  
12 tion to the amount of increased state aid received by the municipal-  
13 ity. The governing body of each municipality shall furnish a notice  
14 with each tax statement describing its use of this increased state  
15 aid.

16 ARTICLE 15. GENERAL PROVISIONS.

17 Sec. 29.60.800. DEFINITIONS. In this chapter

18 (1) "health facility"

19 (A) means a facility that is licensed, when required,  
20 by the state under AS 18.20.010 - 18.20.130 and that is owned or  
21 operated or both by a municipality or by a nonprofit corporation  
22 or other nonprofit sponsor;

23 (B) includes a public health center, maternity home,  
24 community mental health center, facility for the mentally or  
25 physically handicapped, nursing home, or convalescent center;

26 (C) excludes a facility operated or wholly supported  
27 by the state or the federal government;

28 (2) "hospital" means a licensed hospital determined by the  
29 Department of Health and Social Services to be a general hospital; the

1 term excludes a facility operated or wholly supported by the state or  
2 the federal government.

3 \* Sec. 16. AS 29 is amended by adding a new chapter to read:

4 CHAPTER 65. GENERAL GRANT LAND.

5 Sec. 29.65.010. DETERMINATION OF ENTITLEMENT OF BOROUGHES AND  
6 UNIFIED MUNICIPALITIES. The general grant land entitlement of each of  
7 the municipalities in this section is the amount set out opposite  
8 each:

- 9 (1) Municipality of Anchorage - 44,893 acres;
- 10 (2) City and Borough of Juneau - 19,584 acres;
- 11 (3) City and Borough of Sitka - 10,500 acres;
- 12 (4) Bristol Bay Borough - 2,898 acres;
- 13 (5) Fairbanks North Star Borough - 112,000 acres;
- 14 (6) Haines Borough - 2,800 acres;
- 15 (7) Kenai Peninsula Borough - 155,780 acres;
- 16 (8) Ketchikan Gateway Borough - 11,593 acres;
- 17 (9) Kodiak Island Borough - 56,500 acres;
- 18 (10) Matanuska-Susitna Borough - 355,210 acres;
- 19 (11) North Slope Borough - 89,850 acres.

20 Sec. 29.65.020. DETERMINATION OF ENTITLEMENT FOR CITIES. The  
21 general grant land entitlement of a city formerly eligible to receive  
22 general grant land under the provisions of AS 29.18.190 and 29.18.200  
23 is 10 percent of the maximum total acreage of vacant, unappropriated,  
24 unreserved land in the boundaries of each city at any time between the  
25 initial date of eligibility under former AS 29.18.190 and 29.18.200  
26 and July 1, 1978. Within six months after July 1, 1978, the director  
27 shall determine the entitlement for each city eligible to receive  
28 general grant land under this section and certify that entitlement to  
29 the city.

1           Sec. 29.65.030. DETERMINATION OF ENTITLEMENT FOR NEWLY INCOR-  
2 PORATED MUNICIPALITIES. (a) The general grant land entitlement of a  
3 municipality incorporated after July 1, 1978, is 10 percent of the  
4 total acreage of vacant, unappropriated, unreserved land within the  
5 boundaries of the municipality on the date of its incorporation.

6           (b) Within six months after the date of incorporation of a muni-  
7 cipality that is incorporated after July 1, 1978, the director shall  
8 determine the entitlement of each municipality eligible to receive  
9 general grant land under (a) of this section and certify the entitle-  
10 ment to the municipality.

11          Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After July 1,  
12 1978, general grant land entitlements provided in AS 29.65.010 and  
13 29.65.020 are vested property rights that must be fulfilled as pro-  
14 vided in AS 29.65.050 or 29.65.080.

15          (b) General grant land entitlements provided by AS 29.65.030 are  
16 property rights that vest on the date of incorporation of the munici-  
17 pality. The entitlement must be fulfilled as provided in AS 29.65.-  
18 050.

19          (c) Land may be selected or nominated for selection by a munici-  
20 pality to satisfy a general grant land entitlement under AS 29.65.010  
21 and 29.65.020 at any time before October 1, 1980. However, if a muni-  
22 cipal selection or nomination or a part of a municipal selection or  
23 nomination is rejected by the director, the municipality may, not  
24 later than 90 days after receipt of the director's rejection, select  
25 additional state land as necessary to satisfy its entitlement.

26          (d) Land may be selected by a municipality to satisfy a general  
27 grant land entitlement under AS 29.65.030 at any time within one year  
28 after the director certifies the entitlement to the municipality.

29          (e) The time limitations imposed by (c) and (d) of this section

1 for exercising a vested general grant land entitlement do not apply to

2 (1) the portion of an entitlement that cannot be satisfied  
3 by that date because of a shortage of land suitable for residential,  
4 commercial, and industrial purposes that is vacant, unappropriated,  
5 unreserved land;

6 (2) payments for land deficiency under AS 29.65.080;

7 (3) the portion of an entitlement that cannot be satisfied  
8 because the land selected by a municipality has been selected by a  
9 party entitled to select land owned by the United States or the state;  
10 or

11 (4) the portion of an entitlement that cannot be satisfied  
12 because the land nominated for selection by the municipality is not  
13 tentatively approved for patent to the state.

14 Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS. (a) The  
15 acreage of each municipality's land selections for which patent has  
16 been issued before July 1, 1978, shall be credited toward fulfillment  
17 of the entitlement of that municipality.

18 (b) All approved selections under former AS 29.18.190 and 29.-  
19 18.200 for which patent has not been issued to a municipality on  
20 July 1, 1978, shall be reviewed by the director within nine months  
21 after July 1, 1978. Any approved selection of land that was vacant,  
22 unappropriated, or unreserved on the date of selection is valid as of  
23 the date of the approval under former AS 29.18.190 and 29.18.200, and  
24 a patent shall be issued to the municipality within three months after  
25 approval by the director of a plat of survey. The acreage shall be  
26 credited toward fulfillment of the municipality's entitlement. A  
27 municipality is not entitled to receive patent under this chapter to  
28 more than its entitlement determined under AS 29.65.010 - 29.65.030.  
29 Any prior approval by the director of municipal selections for land

1 that was not vacant, unappropriated, or unreserved on the date of  
2 selection shall be rescinded, and patent may not be issued except when  
3 disposal to a third party by sale or lease has occurred. Transfers of  
4 land to municipalities under this chapter are subject to AS 38.05.321.  
5 Classification actions as reflected on the land status records of the  
6 Department of Natural Resources are determinative of land classifica-  
7 tion status for purposes of this chapter.

8 (c) The director shall approve each selection for patent within  
9 nine months of its selection by a municipality, and a patent shall be  
10 issued to the municipality for land selected in satisfaction of a  
11 general grant land entitlement vested under AS 29.65.010 - 29.65.030  
12 within three months after approval by the director of a plat of  
13 survey.

14 Sec. 29.65.060. SCHOOL, UNIVERSITY, AND MENTAL HEALTH LAND. (a)  
15 If an entitlement determined in AS 29.65.010 or 29.65.020 results in a  
16 per capita entitlement for the municipality of less than one and one-  
17 half acre, the municipality may select vacant school, university, or  
18 mental health land in the municipality in partial fulfillment of its  
19 land entitlement under this chapter. School, university, or mental  
20 health land may be selected notwithstanding the fact that these lands  
21 are not unappropriated and unreserved within the meaning of this  
22 chapter and under former AS 29.18.190 and 29.18.200, but each selec-  
23 tion of school, university, or mental health land by a municipality  
24 must be vacant, unappropriated, or unreserved land as defined in this  
25 chapter, except that it need not be general grant land.

26 (b) The acreage of school, university, or mental health land, if  
27 any, in a municipality may not be included in the determination of  
28 entitlement under AS 29.65.010 or 29.65.020.

29 (c) Land conveyed under this section will be credited against a

1 municipality's remaining land entitlement under this chapter.

2 (d) Within six months after approval of a municipal selection of  
3 school, university, or mental health land, the director shall identify  
4 state general grant land of approximately equal value to the land re-  
5 quested by the municipality and shall propose the replacement land for  
6 the concurrence of the appropriate board. If a proposal by the direc-  
7 tor is rejected by the board, the director shall meet with the board  
8 as often as necessary to determine the type and amount of equal value  
9 replacement land that would be required to obtain the board's concur-  
10 rence, and shall propose the replacement land for consideration by the  
11 board. The replacement land shall thereafter be managed for the pur-  
12 poses for which the land selected by the municipality was acquired by  
13 the Territory and State of Alaska.

14 (e) The notice and review provisions of AS 38.05.305 and 38.05.-  
15 345 apply to the designation of other general grant land as school,  
16 university, or mental health land in replacement of land selected  
17 under this section. The provisions of AS 38.50 and AS 38.05.032 do  
18 not apply to such designations under this section. The provisions of  
19 AS 38.05.030(a), 38.05.030(e), and 38.05.035(a)(13) that require the  
20 approval of the respective trust board before disposal of land by the  
21 director do not apply to selections of school, university, or mental  
22 health land by a local government under this section.

23 (f) For purposes of determining the per capita entitlement under  
24 (a) of this section, the population of a municipality shall be the  
25 population determined by the commissioner under former AS 43.18.010  
26 for the program year beginning July 1, 1978, for a municipality whose  
27 entitlement is determined under AS 29.65.010.

28 Sec. 29.65.070. SELECTION AND CONVEYANCE PROCEDURE. (a) If  
29 land selected by a municipality is unusu at the time of approval,

1 the director shall survey, or may approve the municipality's survey  
2 of, the exterior boundaries of an approved selection without interior  
3 subdivision, and shall issue patent in terms of the exterior boundary  
4 survey. The cost of the survey shall be borne by the municipality.  
5 If land selected by a municipality has been surveyed at the time of  
6 its selection, the boundaries shall conform to the public land subdivi-  
7 sions established by the approved survey.

8 (b) The director may approve municipal selections of land that  
9 have been tentatively approved or patented to the state by the federal  
10 government but may not issue patent to a municipality until the land  
11 has first been patented to the state. After approval of a selection  
12 by the director, but before patent to a municipality, the municipality  
13 may execute conditional leases and make conditional sales only with  
14 the consent of the director. Conditional sales and conditional leases  
15 made before July 1, 1978, do not require the consent of the director.

16 (c) Nothing in this chapter affects a valid existing claim,  
17 location or entry under the laws of the state or the United States  
18 whether for homestead, mineral, right-of-way, or other purposes.  
19 Nothing in this chapter affects the rights of an owner, claimant,  
20 locater, or entryman to the full use and enjoyment of the land so  
21 occupied.

22 Sec. 29.65.080. PAYMENT FOR LAND DEFICIENCY. (a) The Alaska  
23 municipal land account is established in the general fund for the  
24 following purposes:

25 (1) providing payment to the boroughs and unified muni-  
26 cipalities designated in AS 29.65.010 for a deficiency of land phys-  
27 ically suitable for residential, commercial, or industrial purposes;  
28 or

29 (2) providing payment to the boroughs and unified muni-

1       cipalities designated in AS 29.65.010 for certain general grant lands  
2       selected by the state and conveyed to a Native corporation under the  
3       provisions of the Alaska Native Claims Settlement Act.

4               (b) A municipality shall receive payment for its land deficiency  
5       from the municipal land account. A municipality is eligible to re-  
6       ceive payment for land deficiency if, after July 1, 1980, the amount  
7       of land selected by a municipality that is physically suitable for  
8       residential, commercial, or industrial purposes amounts to less than  
9       one-third acre per capita. Any entitlement under AS 29.65.010 that is  
10      less than one- third acre per capita will, for the purposes of this  
11      subsection, be considered a land deficiency. An unselected remaining  
12      entitlement will, for the purpose of deficiency payment under this  
13      subsection, be considered as land physically suitable for residential,  
14      commercial, or industrial purposes. A municipality eligible under  
15      this subsection is entitled to receive a payment for land deficiency  
16      equal to \$1,000 per acre for a number of acres equal to the difference  
17      between one-third of the population of the municipality less the  
18      number of acres physically suitable for residential, commercial or  
19      industrial purposes that has been selected by the municipality. For  
20      the purpose of this subsection, the population of the municipality  
21      shall be the population determined in accordance with AS 29.65.060(f).  
22      No payment may be made to a municipality under this subsection in  
23      excess of \$9,000,000.

24              (c) If a municipality selected vacant, unappropriated, unre-  
25      served land on or before December 18, 1971, to which the state had  
26      received tentative approval or patent, and that land was also selected  
27      by a Native corporation organized under the Alaska Native Claims  
28      Settlement Act (P.L. 92-203), and title to that land is ultimately  
29      vested in that Native corporation, the municipality may, at its op-

1 tion, request payment for land deficiency from the municipal land  
2 account. The acceptance of payment under this subsection by a muni-  
3 cipality constitutes a relinquishment of any other right, title, or  
4 claim to the land by that municipality. The total payment to a muni-  
5 cipality under this subsection may not exceed \$1,000 per acre to a  
6 maximum of 8,000 acres.

7 (d) The governor shall annually submit to the legislature a  
8 request for an appropriation to the municipal land account for the  
9 municipalities that have elected to receive payments under (b) or (c)  
10 of this section. The request for appropriation shall distinguish  
11 between amounts necessary to make payments for land deficiency under  
12 (b) of this section and those required to make payments for land  
13 deficiency under (c) of this section.

14 (e) For purposes of fulfilling entitlements under this section,  
15 the legislature is authorized to appropriate

16 (1) not more than \$4,000,000 per fiscal year, and not more  
17 than \$12,000,000 in total, for the purpose of paying entitlements  
18 under (b) of this section;

19 (2) not more than \$1,000,000 per fiscal year, and not more  
20 than \$8,000,000 in total, for the purpose of paying entitlements under  
21 (c) of this section.

22 (f) If an annual appropriation is not sufficient to meet the  
23 amount due to all municipalities that have elected to accept payment  
24 for land deficiency under (b) or (c) of this section, the governor  
25 shall apportion the appropriation among the municipalities in propor-  
26 tion to the payment calculated for each municipality for that year.  
27 When a distribution of payments is made under (c) of this section, the  
28 remaining entitlement of a municipality to which payment is made shall  
29 be reduced in an amount equal to the number of acres for which payment

1 was received. An appropriation made under this section is in addition  
2 to other grants and entitlements authorized to eligible municipali-  
3 ties.

4 (g) Payments authorized by this section may not be made to a  
5 municipality eligible for an entitlement under AS 29.65.020 or 29.65.-  
6 030.

7 (h) Payments made under this section shall be used by a muni-  
8 cipality that levies property taxes to reduce the levy in proportion  
9 to the amount of state payments received by the municipality for a  
10 given fiscal year. The governing body of each municipality shall  
11 furnish a notice with the tax statement describing the effect on  
12 property tax levies of payments received under this section.

13 Sec. 29.65.090. AUTHORIZATION FOR LAND EXCHANGES. The director,  
14 with the concurrence of the commissioner, and a municipality are  
15 authorized to exchange land or interests in land when it is in the  
16 public interest. Land or interests in land exchanged under this  
17 section must be of approximately equal value, including the nonre-  
18 tary value of public benefits. Exchange procedures shall comply with  
19 applicable law and municipal ordinances. The notice and review pro-  
20 visions of AS 38.05.305 and 38.05.345 apply to exchanges of land under  
21 this section. The provisions of AS 38.50 do not apply to exchanges of  
22 land under this section.

23 Sec. 29.65.100. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Con-  
24 sistent with the best interests of the state, if a municipality does  
25 not contain and cannot reasonably acquire sufficient nonfederal land  
26 within its boundaries to meet its legitimate needs for public or  
27 private settlement or development, it shall be the policy of the state  
28 to select federal land reasonably necessary to meet the needs of the  
29 municipality and to make the land selected available to the municipal-

1           ity under AS 38.05.315 or (b) of this section.

2           (b) Where state land is the most logical location for demon-  
3           strated municipal expansion for nonpublic settlement and development  
4           purposes, and when an exchange of land under AS 29.65.090 is not  
5           possible or is not in the public interest, it is the policy of the  
6           state to sell or lease the land at public auction. The state may  
7           contract with a municipality to act as its agent in an auction of  
8           state land under applicable statutes. When a municipality acts as the  
9           agent of the state in an auction, the municipality may retain from the  
10          proceeds of the auction the expenses that the director determines to  
11          be necessary and reasonable.

12          (c) Nothing in this chapter limits or impairs the authority of  
13          the director to transfer land to municipalities, without limit or  
14          consideration, for public purposes in accordance with AS 38.05.315.  
15          If there is a remaining entitlement of the municipality, land trans-  
16          ferred under AS 38.05.315 shall be credited toward fulfillment of the  
17          entitlement.

18          Sec. 29.65.110. ELECTION OF BENEFITS. (a) A municipality that  
19          on July 1, 1978, is engaged in litigation, or that becomes engaged in  
20          litigation, regarding a claim to state land under former AS 29.18.190  
21          and 29.18.200 shall elect either to obtain the benefits provided in  
22          this chapter or to pursue the litigation and waive any claim to en-  
23          titlement under this chapter. An election shall be made by filing a  
24          motion for dismissal with prejudice in the court in which the litiga-  
25          tion is pending. If the claim involves a municipality identified in  
26          AS 29.65.010, the municipality shall file its motion for dismissal  
27          within 60 days after July 1, 1978. If a claim involves a city eligi-  
28          ble to receive an entitlement under AS 29.65.020 the city shall file  
29          its motion for dismissal within 60 days after receiving the certifi-

1       cate of entitlement provided by the director under AS 29.65.020.  
2       Failure of the municipality to file a motion for dismissal during the  
3       time period provided in this subsection is considered a waiver of  
4       entitlement under this chapter.

5               (b) A municipality that was eligible to file land selections  
6       under former AS 29.18.190 and 29.18.200 and that does not enter into  
7       litigation over a claim to rights under those sections before the  
8       expiration of the time period within which it could make an election  
9       under (a) of this section is considered to have elected to receive  
10       benefits under this chapter and to have waived any claim that might  
11       have been raised under former AS 29.18.190 and 29.18.200.

12              (c) The provisions of this chapter do not affect the rights of a  
13       party to litigation regarding the former AS 29.18.190, 29.18.200 or  
14       29.18.420 maintained by a municipality that has elected not to obtain  
15       the benefits provided by this chapter.

16              Sec. 29.65.120. ADMINISTRATION. The commissioner of natural  
17       resources may adopt regulations in accordance with the Administrative  
18       Procedure Act (AS 44.62) necessary to carry out the purposes of this  
19       chapter.

20              Sec. 29.65.130. DEFINITIONS. In this chapter, unless the con-  
21       text otherwise requires,

22                      (1) "approved selection" means a municipal land selection  
23       that has been approved in writing by the director for transfer by  
24       patent to a municipality;

25                      (2) "director" means the director of the division of lands,  
26       Department of Natural Resources, or the director's designee;

27                      (3) "general grant land" means land patented or tentatively  
28       approved to the state from the United States under sec. 6(a) or (b) of  
29       the Alaska Statehood Act;

1           (4) "mental health land" means land granted under Title II,  
2 sec. 202 of P.L. 84-830, as amended before or after July 1, 1978;

3           (5) "municipal land selection" means a request by a munici-  
4 pality, filed in writing with the director under authority of former  
5 AS 29.18.190 and 29.18.200 or under this chapter for vacant, unappro-  
6 priated, unreserved general grant land within its municipal boundaries  
7 in partial fulfillment of its municipal entitlement;

8           (6) "patent" means a document, issued by the director to a  
9 municipality for a previously approved selection, that conveys and  
10 quitclaims all the right, title, and interest of the state without  
11 reservation or condition except as may be required by law;

12           (7) "remaining entitlement" means the general grant land  
13 entitlement determined in accordance with this chapter, reduced by the  
14 total acreage of approved selections, including both patented and un-  
15 patented parcels;

16           (8) "school land" means those rectangular sections 16 and  
17 36 within each township surveyed on or before January 5, 1959, and  
18 confirmed and transferred to the State of Alaska upon its admission  
19 under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other  
20 land designated solely for school revenues;

21           (9) "university land" means all sections 33 reserved to the  
22 university under 38 Stat. 1214, as amended (46 U.S.C. 353) and all  
23 land granted to or reserved for the benefit of the university;

24           (10) "vacant, unappropriated, unreserved land" means general  
25 grant land as defined in (4) of this section, excluding minerals as  
26 required by sec. 6(i) of the Alaska Statehood Act, that

27                   (A) has not been set aside by statute for one or more  
28 particular uses or purposes;

29                   (B) has not been approved for patent to a municipality

1 under this chapter or former AS 29.18.190 and 29.18.200; or  
2 (C) is unclassified or, if classified under AS 38.05.-  
3 300, is classified for agricultural, grazing, commercial, indus-  
4 trial, private recreational, residential, utility, or open-to-  
5 entry purposes, or is classified in accordance with an agreement  
6 between a municipality and the state providing for state manage-  
7 ment of land of the municipality.

8 Sec. 29.65.140. APPLICATION. This chapter applies to home rule  
9 and general law municipalities.

10 \* Sec. 17. AS 29 is amended by adding a new chapter to read:

11 CHAPTER 71. GENERAL PROVISIONS.

12 Sec. 29.71.010. ADVERSE POSSESSION. A municipality may not be  
13 divested of title to real property by adverse possession.

14 Sec. 29.71.020. DEDICATION OF MUNICIPAL PROPERTY. Dedication of  
15 streets, rights-of-way, easements or other areas for public use may  
16 not be construed to require the municipality to maintain, improve or  
17 provide for municipal services in the area dedicated and the dedica-  
18 tion does not impose any liability on the municipality for the condi-  
19 tion of the area dedicated.

20 Sec. 29.71.030. TAXATION OF MUNICIPALITIES. No state law or  
21 regulation may assess or tax, or be construed to assess or tax, a  
22 municipality unless the law or regulation expressly provides that the  
23 municipality is to be assessed or taxed by the particular law or  
24 regulation.

25 Sec. 29.71.800. DEFINITIONS. In this title, unless otherwise  
26 provided or the context otherwise requires,

27 (1) "areawide" means throughout a borough, both inside and  
28 outside all cities in the borough;

29 (2) "assembly" means the governing body of a borough;

- 1           (3) "borough" means a general law first or second class  
2 borough or a home rule borough;
- 3           (4) "city" means a general law first or second class city  
4 or a home rule city;
- 5           (5) "commissioner" means the commissioner of community and  
6 regional affairs;
- 7           (6) "consolidation" means dissolution of two or more muni-  
8 cipalities and their incorporation as a new municipality;
- 9           (7) "council" means the governing body of a city;
- 10          (8) "department" means the Department of Community and  
11 Regional Affairs;
- 12          (9) "election" means a regular or special municipal elec-  
13 tion and does not include a state election;
- 14          (10) "governing body" means the legislative body of a muni-  
15 cipality that is the assembly of a borough or the council of a city;
- 16          (11) "majority" means a simple majority;
- 17          (12) "merger" means dissolution of a municipality and its  
18 absorption by another municipality;
- 19          (13) "municipality" means a political subdivision incor-  
20 porated under the laws of the state that is a home rule or general law  
21 city, a home rule or general law borough, or a unified municipality;
- 22          (14) "nonareawide" means throughout the area of a borough  
23 outside all cities in the borough;
- 24          (15) "owner" or "record owner" means the owner of record or  
25 purchaser of record as shown in the records of the district recorder;
- 26          (16) "personal property" means tangible property other than  
27 real property, such as merchandise, stock in trade, machinery, equip-  
28 ment, furniture, fixtures, vehicles, boats, and aircraft;
- 29          (17) "property" means real and personal property;

1           (18) "published" means appearing at least once in a news-  
2 paper of general circulation distributed in the municipality or, if  
3 there is no newspaper of general circulation distributed in the muni-  
4 cipality, posting in three public places for at least five days;

5           (19) "real property" means land and improvements, all  
6 possessory rights and privileges appurtenant to the property, and  
7 includes personal property affixed to the land or improvements;

8           (20) "regular election" means the municipal election held on  
9 the first Tuesday of October annually, or on a different date or  
10 interval of years provided by ordinance or charter;

11           (21) "special election" means a municipal election and does  
12 not include a regular election or a state election;

13           (22) "street" includes streets, avenues, boulevards, roads,  
14 lanes, alleys, and other ways;

15           (23) "subdivision"

16           (A) means the division of a parcel of land into two or  
17 more lots or other divisions for the purpose of sale or building  
18 development, includes resubdivision, and relates to the process  
19 of subdividing or to the land subdivided;

20           (B) does not include cadastral plats, cadastral con-  
21 trol plats, open-to-entry plats, or remote parcel plats created  
22 by or on behalf of the state regardless of whether these plats  
23 include easements or other public dedications;

24           (24) "unified municipality" means a municipality unified in  
25 accordance with AS 29.06.190 - 29.06.410;

26           (25) "voter" means a United States citizen who is qualified  
27 to vote in state elections, has been a resident of the municipality  
28 for 30 days immediately preceding the election, is registered to vote  
29 in state elections, and is not disqualified under art. V of the state

1 constitution.

2 \* Sec. 18. AS 01.10.060 is amended by adding a new paragraph to read:

3 (15) "municipality" means a political subdivision incor-  
4 porated under the laws of the state that is a home rule or general law  
5 city, a home rule or general law borough, or a unified municipality.

6 \* Sec. 19. AS 09.55.275 is amended to read:

7 Sec. 09.55.275. REPLAT APPROVAL. No agency of the state or  
8 municipality may acquire property located within a municipality exer-  
9 cising the powers conferred by AS 29.35.180 or AS 29.35.260(c) that  
10 [AS 29.33.150 - 29.33.245 WHICH] results in a boundary change unless  
11 the agency or municipality first obtains from the municipal platting  
12 authority preliminary approval of a replat showing clearly the loca-  
13 tion of the proposed public streets, easements, rights-of-way, and  
14 other taking of private property. Final approval of replat shall be  
15 similarly obtained. However, if a state agency clearly demonstrates  
16 an overriding state interest, a waiver to the approval requirements of  
17 this section may be granted by the governor. The platting authority  
18 shall treat applications for replat made by state or local govern-  
19 mental agencies in the same manner as replat petitions originated by  
20 private landowners.

21 \* Sec. 20. AS 09.65.070(e)(1) is amended to read:

22 (1) "municipality" means a home rule borough or city, a  
23 general law borough or city of any class, or a unified municipality  
24 [ESTABLISHED UNDER AS 29.68.240 - 29.68.440, OR A MUNICIPALITY ESTAB-  
25 LISHED BY MERGER OR CONSOLIDATION UNDER AS 29.68.030 - 29.68.110]; the  
26 term includes a public corporation established by a municipality;

27 \* Sec. 21. AS 14.08.071(b) is amended to read:

28 (b) Except for the first election of regional school members  
29 under (a) of this section, elections [ELECTION] shall be held annually

1 on the first Tuesday in October. Elections shall be supervised by the  
2 director of elections in the office of the lieutenant governor, but  
3 shall be administered within second class cities as part of the regular  
4 municipal election. The lieutenant governor shall adopt [PROMULGATE]  
5 regulations for the conduct of the election of regional school board  
6 members comparable, as far as practicable, to those prescribed for  
7 election of school board members under AS 14.12 and AS 29.20.300  
8 [AS 29.28] except that the majority election requirements of AS 29.-  
9 26.060 [AS 29.28.040] do not apply to, nor may the regulations require  
10 runoff elections for, the first election of regional school board  
11 members under (a) of this section or, if a school board by resolution  
12 so requests, to subsequent elections in the regional educational  
13 attendance area served by that school board.

14 \* Sec. 22. AS 14.08.081 is amended to read:

15 Sec. 14.08.081. RECALL. The members of a regional school board  
16 are subject to recall in accordance with AS 29.26.240 - 29.26.360  
17 [AS 29.28.130 - 29.28.250], except that the director of the division  
18 of elections shall perform the functions of a municipal clerk, and the  
19 lieutenant governor shall perform the functions of the assembly or  
20 council under those sections.

21 \* Sec. 23. AS 14.12.030(c) is amended to read:

22 (c) The [NOTWITHSTANDING THE] provisions of (a) and (b) of this  
23 section do not apply if [, WHERE] the [BOROUGH] assembly serves as the  
24 school board of the borough school district [UNDER AS 29.41.020 THE  
25 NUMBER OF MEMBERS OF THE ASSEMBLY-SCHOOL BOARD SHALL BE DETERMINED IN  
26 THE MANNER PRESCRIBED BY AS 29.23.020].

27 \* Sec. 24. AS 14.12.110 is amended to read:

28 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD.

29 Notwithstanding the provisions of this chapter or other law, a single

1 body may serve as both the [BOROUGH] assembly and [BOROUGH] school  
2 board in the manner provided for third class boroughs under AS 29.20.-  
3 300(b) [AS 07.17.030], if

4 (1) an [A BOROUGH] ordinance for that purpose is approved  
5 by the assembly and ratified by a referendum of a majority of the  
6 qualified borough voters voting on the question at a regular or  
7 special election; [,] and

8 (2) [IF] the public school population within the borough is  
9 500 pupils or less.

10 \* Sec. 25. AS 14.14.020 is amended to read:

11 Sec. 14.14.020. BOND REQUIRED. Before the officer responsible  
12 for custody [OF], investment, or management of school district money  
13 enters upon the duties of office, the district, or the municipality if  
14 the treasury is centralized, shall obtain a bond with sufficient  
15 sureties in an amount equal to the money that may come into the offi-  
16 cer's official custody, but not to exceed \$50,000. The bond shall be  
17 conditioned on the officer's honest and faithful disbursement and  
18 accounting of all money that may come into the official custody of the  
19 officer. The bond shall be filed with the clerk of the school board.  
20 This section does not apply to an officer who has been bonded under  
21 AS 29.20.610 [AS 29.23.520].

22 \* Sec. 26. AS 14.14.050(d) is amended to read:

23 (d) The school board shall not make the audit if an audit that  
24 [WHICH] satisfies the requirements of this section and that [WHICH] is  
25 filed and posted as required by this section [,] is made according to  
26 AS 29.35.110 [AS 29.48.220].

27 \* Sec. 27. AS 14.17.140(a) is amended to read:

28 (a) To determine the equalized percentage to be applied to basic  
29 need under AS 14.17.021, and the matching ratio for required local

1 effort under AS 14.17.071, the Department of Community and Regional  
2 Affairs, in consultation with the assessor for each district, shall  
3 determine the full value of the taxable real and personal property in  
4 each district. Exemptions granted under ch. 129, SLA 1957, known as  
5 the Alaska Industrial Incentive Act (AS 43.25), shall be honored. If  
6 there is no local assessor or current local assessment for a district,  
7 then the Department of Community and Regional Affairs shall make the  
8 determination of full value from information available. In making the  
9 determination, the Department of Community and Regional Affairs shall  
10 be guided by AS 29.45.110 [AS 29.53.060]. The determination of full  
11 value shall be made before October 1 and sent by certified mail,  
12 return receipt requested, before that date to the president of the  
13 school board in each district. Duplicate copies shall be sent to the  
14 commissioner. The governing body of the municipality that [BOROUGH OR  
15 CITY WHICH] is the district may obtain judicial review of the deter-  
16 mination by filing a motion in the superior court of the judicial  
17 district in which the district is located within 30 days after receipt  
18 of the determination. The superior court may modify the determination  
19 of the Department of Community and Regional Affairs only upon a find-  
20 ing of abuse of discretion or upon a finding that there is no substan-  
21 tial evidence to support the determination.

22 \* Sec. 28. AS 15.13.010(a) is amended to read:

23 (a) This chapter applies in every election for governor, lieu-  
24 tenant governor, a member of the state legislature, a delegate to a  
25 constitutional convention, or judge seeking electoral confirmation.  
26 It also applies to every candidate for election to a municipal office  
27 in a municipality [CITY OR BOROUGH] with a population of more than  
28 1,000 inhabitants according to the latest United States census figures  
29 or estimates of population certified as correct for administrative

1 purposes by the Department of Community and Regional Affairs. A  
2 municipality may exempt its elected municipal officers from the re-  
3 quirements of this chapter if a majority of the voters voting on the  
4 question at a [ANY] regular election, as defined by AS 29.71.800(20)  
5 [AS 29.78.010(14)], or a special municipality-wide election called for  
6 that purpose, vote to exempt its elected municipal officers from the  
7 requirements of this chapter. The question of exemption from the  
8 requirements of this chapter may be submitted by the governing body  
9 [CITY COUNCIL OR BOROUGH ASSEMBLY] by ordinance or by initiative  
10 election [ORDINANCE]. Nothing in this chapter prohibits a municipal-  
11 ity from regulating by ordinance campaign contributions and expendi-  
12 tures.

13 \* Sec. 29. AS 15.13.120(f)(3) is amended to read:

14 (3) AS 29.20.170 [AS 29.23.060(c)], if the candidate is a  
15 candidate for the borough assembly;

16 \* Sec. 30. AS 15.13.120(f)(4) is amended to read:

17 (4) AS 29.20.280 [AS 29.23.130(f)], if the candidate is a  
18 candidate for borough mayor;

19 \* Sec. 31. AS 15.13.120(f)(5) is amended to read:

20 (5) AS 29.20.170 [AS 29.23.210(b)], if the candidate is a  
21 candidate for city council;

22 \* Sec. 32. AS 15.13.120(f)(6) is amended to read:

23 (6) AS 29.20.280 [AS 29.23.255], if the candidate is a  
24 candidate for city mayor;

25 \* Sec. 33. AS 15.56.110(b)(2) is amended to read:

26 (2) a member of the borough assembly [ASSEMBLYMAN] under  
27 AS 29.20.170(6) [AS 29.23.060(c)];

28 \* Sec. 34. AS 15.56.110(b)(3) is amended to read:

29 (3) a borough mayor under AS 29.20.280(6) [AS 29.23.130-

1 (f)];

2 \* Sec. 35. AS 15.56.110(b)(4) is amended to read:

3 (4) a member of the city council [COUNCILMAN] under AS 29.-  
4 20.170(6) [AS 29.23.210(b)];

5 \* Sec. 36. AS 15.56.110(b)(5) is amended to read:

6 (5) a city mayor under AS 29.20.280(6) [AS 29.23.255];

7 \* Sec. 37. AS 16.20.036(g) is amended to read:

8 (g) The establishment of a refuge under this section does not  
9 impair or alter existing rights of a municipality [BOROUGH OR CITY] to  
10 state land selected [SELECT STATE LAND] under former AS 29.18.190 -  
11 29.18.200.

12 \* Sec. 38. AS 16.20.038(g) is amended to read:

13 (g) The establishment of a refuge under this section does not  
14 impair or alter existing rights of a municipality [BOROUGH OR CITY] to  
15 state land selected [SELECT STATE LAND] under former AS 29.18.190 -  
16 29.18.200.

17 \* Sec. 39. AS 18.26.250(2) is amended to read:

18 (2) municipality [MUNICIPAL CORPORATION OR POLITICAL SUB-  
19 DIVISION OF THE STATE AS THE TERMS ARE USED IN AS 29];

20 \* Sec. 40. AS 18.80.290(d) is amended to read:

21 (d) The governing [LEGISLATIVE] body of a general law or home  
22 rule municipality has the authority under AS 29.20.320 [AS 29.48.035]  
23 to grant to local commissions powers and duties similar to those  
24 exercised by the Alaska Human Rights Commission under the provisions  
25 of this Act.

26 \* Sec. 41. AS 19.30.241(2) is amended to read:

27 (2) "home rule city" means a city as defined in AS 29.04.-  
28 010 [AS 29.08.010];

29 \* Sec. 42. AS 19.30.241(3) is amended to read:

1 (3) "local government" means an organized borough of any  
2 class, a unified municipality [ORGANIZED UNDER AS 29.68.240 - 29.68.-  
3 440], a home rule city, or a first class city [OF THE FIRST CLASS];

4 \* Sec. 43. AS 26.23.230(5) is amended to read:

5 (5) "political subdivision" means a home rule or general  
6 law borough or city [, WHETHER HOME RULE OR OTHERWISE,] including a  
7 unified municipality [MUNICIPALITIES UNIFIED UNDER AS. 29.68.240 -  
8 29.68.440], an unincorporated village, or other unit of local govern-  
9 ment;

10 \* Sec. 44. AS 28.15.051(d) is amended to read:

11 (d) The department may issue a special driver's permit to a  
12 person who is at least 14 years of age with the consent of his parents  
13 or guardians for the purpose of driving a motor-driven cycle. This  
14 permit may be issued upon application and successful completion of all  
15 prescribed tests and fees, and is valid for the same period of time as  
16 a driver's license. The permit is not valid in a municipality that  
17 [WHICH] by ordinance prohibits the driving of a motor-driven cycle by  
18 a person under the age of 16 years; a borough may adopt the ordinance  
19 on a nonareawide basis only, unless the power to adopt it on an area-  
20 wide basis is acquired under AS 29.35.300 - 29.35.330 or former  
21 AS 29.33.250 - 29.33.290.

22 \* Sec. 45. AS 38.04.020(b)(1) is amended to read:

23 (1) land nominated for selection or selected by a muni-  
24 cipality to satisfy a general grant land entitlement under AS 29.65 or  
25 former AS 29.18.201 - 29.18.213;

26 \* Sec. 46. AS 38.04.020(e)(4) is amended to read:

27 (4) for preliminary feasibility studies, engineering design  
28 work, and construction of access roads and capital improvements  
29 required by municipal subdivision ordinance or regulation of the plat-

1       ting authority [BOARD UNDER AS 29.33.150]; if an accurate determina-  
2       tion of the amounts necessary for access roads or capital improvements  
3       cannot be made at the time the estimate is submitted, a schedule for  
4       obtaining the estimates, constructing the access roads or capital  
5       improvements, and disposing of the land shall be submitted;

6       \* Sec. 47. AS 38.04.021(a) is amended to read:

7               (a) A municipality may apply for financial assistance for the  
8       execution of a land disposal program of general grant land entitle-  
9       ments received from the state under AS 29.65 or former AS 29.18.201 -  
10       29.18.213 by submitting a request to the commissioner for inclusion in  
11       the request submitted to the legislature under AS 38.04.020(e). A  
12       municipality may request financial assistance for expenses of survey-  
13       ing land, designing subdivision plats, installing improvements re-  
14       quired by municipal ordinance or regulation of the local platting  
15       authority [BOARD], and other reasonable direct costs of land disposal.

16       \* Sec. 48. AS 38.04.021(d) is amended to read:

17               (d) A grant made under this section may not exceed five times  
18       the amount of money appropriated by a first class city, a borough, or  
19       a unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440] for  
20       the disposal of municipal land in the current fiscal year unless the  
21       commissioner exempts the municipality from this subsection.

22       \* Sec. 49. AS 38.04.021(e)(2) is amended to read:

23               (2) a first class city, a borough, or a unified municipal-  
24       ity that [UNIFIED UNDER AS 29.68.240 - 29.68.440 WHICH] is exempted by  
25       the commissioner under (d) of this section.

26       \* Sec. 50. AS 38.04.900(b) is amended to read:

27               (b) A municipality has standing to petition the commissioner for  
28       the adoption of a regulation, or for the amendment or repeal of an  
29       existing regulation, or to appeal a decision of the commissioner with

1 respect to classification, management, or disposal of land made under  
2 authority of a regulation adopted under (a) of this section with  
3 respect to state land outside the corporate boundaries of the muni-  
4 cipality to protect any interest which the municipality is authorized  
5 to regulate outside its boundaries under AS 29.35.020 [AS 29.48.037].

6 \* Sec. 51. AS 38.05.127(d) is amended to read:

7 (d) Upon application by a municipality or an affected owner of  
8 land, the department may vacate, release, modify, or relocate an ease-  
9 ment and right-of-way for public access to or along navigable or  
10 public waters reserved by the department in a patent issued under  
11 AS 29.18.510 - 29.18.610, AS 29.05, AS 29.65, or former AS 29.18.011 -  
12 29.18.460, [AS 29.18] if the commissioner determines the action is  
13 consistent with the public interest.

14 \* Sec. 52. AS 38.05.290(b) is amended to read:

15 (b) Consistent with the best interests of the state, in the  
16 selection of general grant land it is the policy of the state to make  
17 available the maximum land area from which municipalities may fulfill  
18 land entitlements under AS 29.65 or former AS 29.18.201 - 29.18.213.

19 \* Sec. 53. AS 38.05.321(b) is amended to read:

20 (b) State land classified as agricultural land that [WHICH] has  
21 been selected by a municipality under former AS 29.18.190 - 29.18.200  
22 or former AS 29.18.205(e) may be approved by the director for patent  
23 under AS 29.65.050(c) or former AS 29.18.205(f); however, only rights  
24 in the land for agricultural purposes may be transferred and all other  
25 interests in the land will remain with the state. Agricultural land  
26 approved for patent to a municipality [UNDER AS 29.18.205(f)] shall be  
27 credited, acre for acre, toward fulfillment of that municipality's  
28 entitlement under AS 29.65.010 - 29.65.030 or former AS 29.18.201 -  
29 29.18.203. If the director later determines it to be in the best

1 interests of the state to transfer some or all of the additional  
2 rights in that approved or patented agricultural land, those rights  
3 shall pass without consideration to the municipality in which the land  
4 is located. The notice and review provisions of [AS 38.05.305 AND]  
5 AS 38.05.345 are applicable to conveyance of rights under this sec-  
6 tion.

7 \* Sec. 54. AS 38.05.321(c) is amended to read:

8 (c) The provisions of this section do not apply to state land  
9 classified as agricultural land which has been selected by a muni-  
10 cipality under the provisions of former AS 29.18.190 - 29.18.200 if  
11 the selection is an approved selection before April 1, 1978 and is  
12 otherwise valid under AS 29.65.050(b) or former AS 29.18.205(b).

13 \* Sec. 55. AS 38.05.362(b) is amended to read:

14 (b) Nothing in this section affects the selection rights of a  
15 municipality [BOROUGH OR CITY] under former AS 29.18.190 - 29.18.200  
16 for areas selected as of July 1, 1977, or a valid existing claim,  
17 location, or entry under law, as of July 1, 1976.

18 \* Sec. 56. AS 39.50.145 is amended to read:

19 Sec. 39.50.145. PARTICIPATION BY MUNICIPALITIES. A municipality  
20 may exempt its municipal officers from the requirements of this chap-  
21 ter if a majority of the voters voting on the question at a [ANY]  
22 regular election, as defined by AS 29.71.800(20) [AS 29.78.010(14)],  
23 or a special municipality-wide election, vote to exempt its municipal  
24 officers from the requirements of this chapter. The question of  
25 exemption from the requirements of this chapter may be submitted by  
26 the city council or borough assembly by ordinance or by initiative  
27 election [ORDINANCE].

28 \* Sec. 57. AS 39.50.200(a)(6) is amended to read:

29 (6) "municipal officer" includes a borough or city mayor,

1 borough assemblyman, city councilman, school board member, elected  
2 utility board member, city or borough manager, members of a city or  
3 borough planning or zoning commission within a home rule or general  
4 law city or borough or [INCLUDING BUT NOT LIMITED TO] a unified muni-  
5 cipality [UNDER AS 29.68];

6 \* Sec. 58. AS 40.15.075 is amended to read:

7 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD  
8 CLASS BOROUGH. The division of lands is the platting authority in  
9 the area outside organized boroughs and outside cities in the unor-  
10 ganized borough and in the third class borough for only the purposes  
11 of hearing and acting on petitions for the change or vacation of plats  
12 and shall execute this function substantially in conformity with the  
13 provisions of AS 29.40.130 - 29.40.160 [AS 29.33.210 - 29.33.240].  
14 Costs of publication and mailing [AS WELL AS OTHER COSTS] authorized  
15 in AS 29.40.130 [AS 29.33.210] shall be paid to the division by the  
16 petitioner. The Department of Natural Resources shall adopt reason-  
17 able regulations governing the exercise of the authority conferred by  
18 this section upon the division of lands.

19 \* Sec. 59. AS 40.15.200 is amended to read:

20 Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVI-  
21 SIONS. All subdivisions of land made by the state, its agencies,  
22 instrumentalities and political subdivisions are subject to the provi-  
23 sions of this chapter and AS 29.40.070 - 29.40.160 [AS 29.33.150 -  
24 29.33.240], or home rule ordinances or regulations governing subdivi-  
25 sions, and shall comply with ordinances and other local regulations  
26 adopted under this chapter and AS 29.40.070 - 29.40.160 or former  
27 AS 29.33.150 - 29.33.240, or under home rule authority, in the same  
28 manner and to the same extent as subdivisions made by other  
29 landowners.

1 \* Sec. 60. AS 41.22.020(d) is amended to read:

2 (d) In (a) of this section "municipalities" includes cities or  
3 organized boroughs of any class and unified municipalities exercising  
4 powers to initiate projects described in AS 41.22.020 and acquire  
5 parks and open space land, as otherwise authorized by law [, AND  
6 INCLUDES BUT IS NOT LIMITED TO UNIFIED MUNICIPALITIES ORGANIZED UNDER  
7 AS 29.68.240 - 29.68.440].

8 \* Sec. 61. AS 41.35.180(5) is amended to read:

9 (5) consult with local historical district commissions re-  
10 garding the establishment of historical districts under AS 29.55.010 -  
11 29.55.020 [AS 29.48.108 - 29.48.110] and the approval of project  
12 alterations under AS 45.98.040; recommend, if appropriate, the formu-  
13 lation of additional criteria for the designation of historical dis-  
14 tricts under AS 29.55.020(b) [AS 29.48.110(b)]; approve plans for and  
15 evaluate the suitability of specific structures for purposes of loan  
16 eligibility and continuance under the historical district revolving  
17 loan fund (AS 45.98); and consult with the Department of Commerce and  
18 Economic Development relative to the adoption of regulations for  
19 historical district loans under AS 45.98.

20 \* Sec. 62. AS 43.18.430 is amended to read:

21 Sec. 43.18.430. POWER OF MUNICIPALITY. A municipality may own,  
22 maintain and employ a facility constructed under AS 43.18.400 - 43.-  
23 18.460. The exercise of this power on an areawide basis is at the  
24 option of the borough and is not subject to the restrictions on ac-  
25 quiring additional areawide powers in AS 29.35.300 - 29.35.330  
26 [AS 29.33.250 - 29.33.290].

27 \* Sec. 63. AS 43.18.500(d)(2)(A) is amended to read:

28 (A) has the authority under AS 29.35 [AS 29.41 OR  
29 AS 29.48] to provide and maintain a cultural facility;

1 \* Sec. 64. AS 43.56.010(b) is amended to read:

2 (b) A municipality may levy and collect a tax under: AS 29.45.080  
3 [AS 29.53.045] at the rate of taxation that applies to other property  
4 taxed by the municipality. The tax shall be levied at a rate no  
5 higher than the rate applicable to other property taxable by the  
6 municipality. No municipality may exempt from taxation property  
7 authorized to be taxed under this chapter. Exemptions shall be lim-  
8 ited to those in AS 29.45.030, 29.45.050, [AS 29.53.020 AND AS 29.53.-  
9 025] and AS 43.56.020.

10 \* Sec. 65. AS 43.56.010(c) is amended to read:

11 (c) If the total value of assessed property of a municipality  
12 taxing under AS 29.45.080(c) [AS 29.53.045(c)] exceeds the product of  
13 225 percent of the average per capita assessed full and true value of  
14 property in the state (to be determined by the department and reported  
15 to each municipality by January 15 of each year) multiplied by the  
16 number of residents of the taxing municipality, the department shall  
17 designate the portion of the tax base against which the local tax may  
18 be applied. For purposes of this subsection the average per capita  
19 assessed full and true value of property in the state shall be calcu-  
20 lated without regard to the assessed value of taxable property under  
21 AS 43.58.

22 \* Sec. 66. AS 43.56.010(d) is amended to read:

23 (d) A tax paid to a municipality under AS 29.45.080 [AS 29.53.-  
24 045] on or before June 30 of the tax year shall be credited against  
25 the tax levied under (a) of this section for that tax year. If,  
26 however, a tax is not paid to a municipality until after June 30 of  
27 the taxable year, the department upon application shall refund to the  
28 taxpayer the amount of tax paid to the municipality under AS 29.45.080  
29 [AS 29.53.045]. The credit or refund of taxes paid to a municipality

1 may not exceed the total amount of tax levied by the department upon  
2 the taxpayer for the tax year, under (a) of this section.

3 \* Sec. 67. AS 43.56.060(a) is amended to read:

4 (a) The department shall assess property for the tax levied  
5 under AS 43.56.010(b) and AS 29.45.080 [AS 29.53.045] on property used  
6 or committed by contract or other agreement for use for the pipeline  
7 transportation of gas or unrefined oil or for the production of gas or  
8 unrefined oil at its full and true value as of January 1 of the  
9 assessment year.

10 \* Sec. 68. AS 43.75.130(1) is amended to read:

11 (1) to each unified municipality [UNIFIED UNDER AS 29.68.-  
12 240 - 29.68.440,] and to each city located in the unorganized borough,  
13 50 percent of the amount of tax revenue collected in the municipality  
14 from taxes levied by AS 43.75;

15 \* Sec. 69. AS 44.07.360(8) is amended to read:

16 (8) "municipality" means a home rule or general law city or  
17 borough including but not limited to the capital city and a unified  
18 municipality [ORGANIZED UNDER AS 29.68.240 - 29.68.440];

19 \* Sec. 70. AS 44.47 is amended by adding new sections to read:

20 ARTICLE 12. BOROUGH FEASIBILITY STUDIES.

21 Sec. 44.47.700. BOROUGH FEASIBILITY STUDIES. (a) The commis-  
22 sioner may contract for studies of the feasibility of establishing  
23 boroughs in the unorganized borough. A study may be conducted under  
24 this section only if

25 (1) appropriations are available for that purpose; and

26 (2) the study is requested by a person residing in the area  
27 to be studied or by a city located in the area to be studied.

28 Sec. 44.47.710. REQUESTS FOR STUDIES. A request for a study of  
29 the feasibility of establishing a borough in the unorganized borough

1 shall be submitted to the commissioner in writing and shall include

2 (1) a description of the boundaries of the area of the pro-  
3 posed study; and

4 (2) an indication of local interest in the proposed study  
5 consisting of either

6 (A) a petition requesting the study containing the  
7 signatures and addresses of five percent of the voters residing  
8 in the area of the proposed study based on the number of voters  
9 who voted in the area in the last statewide election; or

10 (B) resolutions requesting the study adopted by the  
11 governing bodies of at least five percent of the cities within  
12 the area of the proposed study.

13 Sec. 44.47.720. BOUNDARIES. The boundaries of an area studied  
14 shall conform to the boundaries indicated in the request for the study  
15 under AS 44.47.710 unless the commissioner, after a public hearing  
16 held in the area of the proposed study, determines that the boundaries  
17 should be altered. In determining the boundaries of an area to be  
18 studied, the commissioner shall consider

19 (1) the standards applicable to the incorporation of bor-  
20 oughs under AS 29.18.030;

21 (2) boundaries of regional corporations established under  
22 43 U.S.C. 1606;

23 (3) census divisions of the state used for the 1980 census;

24 (4) boundaries of the regional educational attendance areas  
25 established under AS 14.08.031; and

26 (5) boundaries of coastal resource service areas organized  
27 under AS 46.40.110 - 46.40.210.

28 Sec. 44.47.730. CONTRACTS. (a) The commissioner shall contract  
29 for a study of the feasibility of establishing a borough in the unor-

1 ganized borough by following the procedures set out in AS 36.98. The  
2 commissioner shall include terms in the contract that provide for

- 3 (1) public participation in the preparation of the study;  
4 (2) completion of the study not later than June 30 of the  
5 third year after the year the contract is executed.

6 (b) A study under this section shall include

7 (1) a recommendation for or against incorporation of a bor-  
8 ough containing all or part of the area studied;

9 (2) an evaluation of the economic development potential of  
10 the area studied;

11 (3) an evaluation of capital facility needs of the area  
12 studied;

13 (4) an evaluation of demographic, social, and environmental  
14 factors affecting the area studied;

15 (5) an evaluation of the relationships among regional  
16 educational attendance areas, coastal resource service areas, and  
17 other regional entities responsible for providing services in the area  
18 studied;

19 (6) an evaluation of the relationships between the existing  
20 cities within the area studied and regional entities responsible for  
21 providing services in the area; and

22 (7) specific recommendations for

23 (A) organization of a home rule or general law borough  
24 government if one is recommended;

25 (B) changes in organization of cities in the area  
26 studied; or

27 (C) the improvement of the delivery of services to the  
28 public by the state in the area studied.

29 \* Sec. 71. AS 44.83.162(m) is amended to read:

1 (m) For purposes of (c) of this section, the number of residents  
2 of the community equals the number of residents of the community  
3 determined by the Department of Community and Regional Affairs in  
4 accordance with AS 29.60.020 [AS 29.88.015].

5 \* Sec. 72. AS 44.85.270(i) is amended to read:

6 (i) All references to the "reserve fund" in this section include  
7 special accounts within the reserve fund which may be created by the  
8 authority to secure the payment of particular bonds, including, with-  
9 out limitation, bonds issued by the capital city established under  
10 AS 29.14.010 [AS 29.18.510]. The commissioner of revenue may lend  
11 surplus money in the general fund to the authority for deposit to any  
12 account in the reserve fund in an amount equal to the required debt  
13 service reserve. The loans shall be made on such terms and conditions  
14 as may be agreed upon by the commissioner of revenue and the author-  
15 ity, including, without limitation, terms and conditions providing  
16 that the loans need not be repaid until the obligations of the corpo-  
17 ration secured and to be secured by the account in the reserve fund  
18 are no longer outstanding.

19 \* Sec. 73. AS 44.85.410(3)(A) is amended to read:

20 (A) a general obligation bond that [WHICH] is a direct  
21 and general obligation of a political subdivision of the state,  
22 all the taxable property within which is subject to taxation to  
23 pay the bond, note or evidence of debt, and the interest without  
24 limitation, as to rate or amount generally to the extent permit-  
25 ted by law or to avoid a default as provided for second class  
26 cities under AS 29.45.590 [AS 29.53.410]; or

27 \* Sec. 74. AS 44.85.410(3)(D) is amended to read:

28 (D) a bond of a borough issued as a general obligation  
29 of a service area under AS 29.47.440 or former AS 29.58.340; [.]

1 \* Sec. 75. AS 45.98.020 is amended to read:

2           Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and  
3 plan approval by a local historical district commission established  
4 under AS 29.55.010 or former AS 29.48.108 and the recommendation of a  
5 majority of the members of the Historic Sites Advisory Committee, the  
6 Department of Commerce and Economic Development may make loans to a  
7 person, firm, business or municipality subject to applicable laws for  
8 the restoration, improvement, rehabilitation, or maintenance of a  
9 structure that [WHICH] is

10                   (1) within the boundaries of a historical district estab-  
11 lished under AS 29.55.020 or former AS 29.48.110;

12                   (2) identified as important in state or national history as  
13 provided for in AS 29.55.020(b) or former AS 29.48.110(b); and

14                   (3) another building or structure within a historical dis-  
15 trict, and suitable for superficial modification so that it can con-  
16 form to the period or motif of the surrounding buildings or structures  
17 that are the reason for the area's designation as a historical dis-  
18 trict.

19 \* Sec. 76. AS 46.03.210(a) is amended to read:

20           (a) A municipality with a population in excess of 1,000 may,  
21 within five years from August 5, 1969, establish and administer within  
22 its jurisdiction an air pollution control program. Organized boroughs  
23 may establish an air pollution control program on an areawide basis,  
24 and the exercise of powers with respect to the program is not subject  
25 to the restrictions on acquiring additional areawide powers specified  
26 in AS 29.35.300 - 29.35.330 [AS 29.33.250 - 29.33.290]. Local pro-  
27 grams shall

28                   (1) provide by ordinance for requirements compatible with  
29 those imposed by the provisions of AS 46.03.140 and 46.03.170 and

1 applicable regulations;

2 (2) provide for the enforcement of the requirements imposed  
3 through appropriate administrative and judicial processes;

4 (3) provide for a local administrative organization, staff,  
5 and other resources necessary to effectively carry out the purposes of  
6 the program; and

7 (4) be approved by the department as being satisfactory to  
8 meet the requirements of AS 46.03.140 - 46.03.170 and the applicable  
9 regulations.

10 \* Sec. 77. AS 46.11.040(3)(A) is amended to read:

11 (A) is constructed under an exception to the municipal  
12 building code granted because the exception will result in in-  
13 creased energy efficiency [UNDER AS 29.33.080(g)];

14 \* Sec. 78. AS 46.11.900(8) is amended to read:

15 (8) "state financial assistance" means a loan, grant,  
16 guarantee, insurance, payment, rebate, subsidy, or other form of state  
17 assistance (other than aid under AS 29.60 [AS 29.88, AS 29.89, AS 29.-  
18 90, AS 29.95] and AS 43.18) including the purchase by a state agency  
19 of a loan to finance the construction of a new residential, commer-  
20 cial, or industrial building;

21 \* Sec. 79. AS 46.35.200(3) is amended to read:

22 (3) "local government" means a city or borough including a  
23 unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440];

24 \* Sec. 80. AS 46.40.140(h) is amended to read:

25 (h) Members of coastal resource service area boards are subject  
26 to recall on the same grounds and in the same manner as provided for  
27 recall of municipal officials in AS 29.26.240 - 29.26.350 [AS 29.28.-  
28 130 - 29.28.250]. The lieutenant governor functions in place of the  
29 assembly or council and municipal clerk for receipt and review of

1 recall petitions and the conduct of recall elections.

2 \* Sec. 81. AS 46.40.210(2)(A) is amended to read:

3 (A) unified municipalities [ESTABLISHED UNDER AS 29.-  
4 68.240 - 29.68.440];

5 \* Sec. 82. AS 47.35.010(b) is amended to read:

6 (b) The department shall, within 90 days after receiving a  
7 written request that it do so, delegate its powers relating to nur-  
8 series under this section and under AS 47.35.040, 47.35.050 and 47.-  
9 35.060 to a municipality which has adopted an ordinance providing for  
10 day care licensing under home rule powers or as authorized under  
11 AS 29.35.200 - 29.35.210 [AS 29.48.035(a)(20)]. A municipality to  
12 which these powers have been delegated may waive or modify any regu-  
13 lation or standard established by the department under the authority  
14 of AS 47.35.010 - 47.35.080 as it applies to nurseries or the applica-  
15 tion of any such regulation or standard as it applies to a particular  
16 day care licensee but must notify the department of any waiver.

17 \* Sec. 83. The following laws are repealed: AS 04.11.400(c); AS 04.-  
18 21.080(11); AS 14.56.065(b), 14.56.180(3); AS 15.13.130(6); AS 18.55.950-  
19 (10); AS 19.20.015(f); AS 24.55.330(3); AS 28.35.260(a)(10); AS 29.08;  
20 AS 29.13; AS 29.18; AS 29.23; AS 29.28; AS 29.33; AS 29.38; AS 29.41; AS  
21 29.43; AS 29.48; AS 29.53; AS 29.58; AS 29.63; AS 29.68; AS 29.73; AS 29.-  
22 78; AS 29.88; AS 29.89; AS 29.90; AS 29.95; AS 30.15.070(3); AS 30.30.170-  
23 (2); AS 35.15.120(3); AS 42.06.630(6); AS 43.18.500(j)(6); AS 43.20.016;  
24 AS 43.56.210(8); AS 44.47.310(5); and AS 44.85.410(4).

25 \* Sec. 84. A right or liability of a municipality existing on July 1,  
26 1983, is not affected by the enactment of this Act. Ordinances and regula-  
27 tions in effect on July 1, 1983, remain in effect unless they conflict with  
28 provisions of this Act. Ordinances and regulations in effect on July 1,  
29 1983, that conflict with provisions of this Act remain in effect for 180

1 days after July 1, 1983. The terms of elected or appointed municipal  
2 officials in office on July 1, 1983, are not affected by this Act, and  
3 their terms expire as provided before July 1, 1983.

4 \* Sec. 85. AS 29.45 as enacted in sec. 11 of this Act is retroactive to  
5 January 1, 1983.

6 \* Sec. 86. AS 29.45 as enacted in sec. 11 of this Act and sec. 85 of  
7 this Act take effect immediately in accordance with AS 01.10.070(c).

8 \* Sec. 87. Except for AS 29.45 as enacted in sec. 11 of this Act and  
9 except for sec. 85 of this Act, this Act takes effect July 1, 1983.

ALASKA'S INVENTORY TAX**Donald R. Magnusson**

The inventory tax is the most unfair and inequitable business tax in Alaska today. This tax has been condemned repeatedly by the Federal Advisory Commission on Intergovernmental Relations and by innumerable state level legislative and administrative studies. Many of their conclusions are well known and we think it is unnecessary to dwell on them at length, but we do think they should be stated briefly for the record. The inventory tax is unfair in that it bears no relation to profit or loss, placing a heavy burden on one segment of the business community which is not shared, either by private citizens or by other segments of the business and professional community. The business or profession that does not hold merchandise for resale, but who may deal with services, professional or otherwise, pays no similar tax. In fact, the merchant who attempts to compete efficiently by stocking more sizes to serve the hard-to-fit, who has more inventory and less turnover, ends up paying more inventory tax -- even if there is no profit with which to pay it.

Taxes on the same amount of inventory vary widely because of different local tax rates and different methods used by taxpayers in determining "fair market value", with some taxpayers paying a tax on maximum value while others pay on a much lower amount. Inventory taxes are, by universal admission, almost impossible to administer fairly, even by the most conscientious tax assessor.

Inventory taxes discourage the warehousing of goods within the State and can cause serious disruptions in the flow of goods, higher prices (such as freight) and more inconvenience to the consumer. In Alaska, this is a matter of critical concern.

When seeking to attract new industry, nontax states openly advertise that they have no inventory tax.

Attached is a list of the forty (40) states, plus the District of Columbia, that have acted to repeal or substantially reduce the inventory tax. Note that twenty-seven (27) states, plus the District, have completely repealed it or are in process of completely phasing it out. (Note also, in this connection, that on March 14, 1979 the Illinois Supreme Court declared the personal property tax abolished as of January 1, 1979 irrespective of whether or not the legislature acts to implement its prior constitutional mandate.)

Most of these actions have occurred during the past dozen years and there is every indication that the trend will continue. No state that has repealed its inventory tax has ever reimposed it. The evidence shows just the opposite. States that have abolished the tax are reporting increased business activity and more jobs created from improvement in the state's business climate. State and local tax revenues have increased due to improved sales tax and income tax collections. Increases in the number of jobs lowers welfare and unemployment insurance costs. The repealed inventory

tax increases the efficiency of city and town administration by permitting greater attention to appraisal of real property and other items of personal property that remain subject to tax.

And, most importantly, a repealed inventory tax removes the pyramiding of inventory tax costs through the various trade levels which are reflected in the price of consumer goods.

In summary, the inventory tax is unfair, unwieldy and unworkable, and has been recognized as such by most states which seek to attract and retain a wide variety of business and industry. If a tax falls unfairly upon a limited few, and if its enforcement is irregular and compliance strained, then the tax should be abolished and a better system substituted in its place. The tax on inventories should be repealed.

## TAXATION OF BUSINESS INVENTORIES

Alabama	Inventory tax repealed by constitutional amendment effective 10/1/78.
Arizona	State constitution exempts all inventories effective 1964.
California	Inventories taxed at .5% of value effective 7/1/78.
Colorado	95% exemption on inventories effective 1973.
Connecticut	Inventory tax phases out by 1982.
Delaware	Exempts all personal property, including inventories, effective 1953.
District of Columbia	Inventories exempt effective 1974.
Florida	90% exemption for inventories of finished goods, 99% exemption for goods in process and raw materials, effective 1978.
Hawaii	Exempts all personal property, including inventories, effective 1947.
Idaho	Inventories exempt effective 1971.
Illinois	An approved constitutional amendment to exempt all personal property, including inventories, effective 1/1/79, has yet to be implemented by the legislature.
Indiana	35% exemption on inventories plus 20% property tax credit.
Iowa	Annually increases personal property credits until total exemption is reached, probably in 1986.
Maine	Inventories exempt effective 1977.
Maryland	Local option phase-out of inventory tax is in progress, each county having different effective date.
Massachusetts	All personal property, including inventories, is exempt unless taxpayer is subject to the corporate excise tax.
Michigan	Inventories exempt effective 1976.
Minnesota	Inventories exempt effective 1967.
Mississippi	Exempts manufactured products in hands of manufacturer, effective 1942.
Montana	93% exemption on inventories effective 1975.

Nebraska	Inventories exempt effective 1979..
Nevada	1978 constitutional amendment phases out the inventory tax over four years and authorizes the legislature to exempt all other personal property.
New Hampshire	Exempts all personal property, including inventories, effective 1970.
New Jersey	Inventories exempt effective 1966.
New Mexico	Inventories exempt effective 1974.
New York	Exempts all personal property, including inventories, effective 1917.
North Carolina	Partially exempts manufacturers' inventories effective 1/1/80.
North Dakota	Exempts all personal property, including inventories, effective 1970.
Ohio	Phasing in an inventory tax exemption of 65%.
Oregon	Inventories exempt effective 1980.
Pennsylvania	Exempts all personal property, including inventories, effective 1939.
Rhode Island	Exempts manufacturers' inventories effective 1966.
South Carolina	Exempts manufacturers' inventories effective 1962.
South Dakota	Inventories exempt effective 1979.
Tennessee	Inventories exempt effective 1972.
Utah	Inventories exempt effective 1973.
Vermont	Inventories exempt on local option basis.
Virginia	Inventories exempt in all counties that impose license tax.
Washington	Inventory tax phase-out, with full exemption in 1983.
Wisconsin	Inventory tax phase-out, with full exemption in 1981.
Wyoming	Inventories exempt effective 1972.

STB 1

# FILE CONTENTS

STB 1 + Table of Contents

STB 1 Sectional

Title 29

Amendments:

Amendments 1 through 10  
have been previously  
discussed.

PASS #1 Utilities

PASS #2 Utilities + TAM's Memo

PASS #3 Wordy change to conform to  
Gov's Bill (OK to cities that upgrade only  
in the unorganized borough)

PASS #4 Wordy change to conform to  
Gov's Bill (list of minor wordy changes)

PASS #5 Change to conform to Gov's bill  
(would give Cola to UFD's)

~~with drawn~~ #6 Withdrawn by Senator Sachett  
(In unincorporated communities  
where residents can not agree  
on a Rev. Sharing recipient - would  
have had Dept hold election)

PASS #7 Change to conform to Gov's bill (clarifying that runoff elections are between two top candidates)

PASS #8 Change suggested by Lee Sharp (eliminating superfluous and confusing language)

PASS #9 Change suggested by Lee Sharp (would mandate 30 day prior registration - making standards for municipal votes consistent with state)

PASS #10 SENATOR FORCUMSON'S SCHOOL POWER AMENDMENT.  
(LEGAL SERVICES would incorporate actual language in committee substitute.)

? #11 By Senator HARFORD  
(Would make detachment and annexation standards equal)

? #12 By Senator HARFORD  
(Would require LRC to make decisions on annexation of petition within 90 days from receipt of petition)

Position Paper by DC+RA  
In <sup>four</sup> parts

DC+RA Fiscal Note

FY83 FY84 FY85 FY.86  
0 100.0 150.0 625

TAM Coak's Eminent Domain Memo

Gov's. 14B172 Transmittal Letter

# STATE OF ALASKA

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

### DIVISION OF LOCAL GOVERNMENT ASSISTANCE

February 17, 1983

The Honorable Frank Ferguson  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ferguson:

As you are aware from the Local Boundary Commission's report to the First Session of the Thirteenth Legislature, the Commission has made several decisions which require either legislative approval or legislative action.

The Commission is particularly concerned that every opportunity is taken at the joint Senate and House Community and Regional Affairs Committee's meeting to explore several of the Commission's recommendations which will require direct legislative action.

The petition to detach 432 square miles of territory in the Lake Louise area from the Matanuska-Susitna Borough was denied by the Commission, and, therefore, is not subject to legislative review. However, as a part of the report to the Legislature on this decision, the Commission has recommended to the Legislature that it investigate the mandating of boroughs in those areas of the unorganized borough which have the economic potential necessary for such government. Specifically, the Commission suggests that the following approach might be taken in addressing this issue:

1. Establish a committee to develop recommendations on mandatory Borough formation. The suggested composition of this committee would include a representative from each of the following:
  - a. Local Boundary Commission;
  - b. Legislative (rural);
  - c. Municipal League; and
  - d. REAA.
2. With the use of a consultant(s) develop for the Committee's review the following:
  - a. a map identifying areas with the potential tax base required for borough formation;
  - b. develop demographics on state wide per capita income; and
  - c. develop a compendium and summary of the borough formation studies conducted or being completed throughout the unorganized borough.

Bill Sheffield, Governor

REPLY TO:

- POUCH BH  
JUNEAU, ALASKA 99811  
(907) 465-4707
- 225 CORDOVA STREET, BLDG. B  
ANCHORAGE, ALASKA 99501  
(907) 264-2201
- P.O. BOX 348  
BETHEL, ALASKA 99559  
(907) 543-3475
- P.O. BOX 41  
NOME, ALASKA 99762  
(907) 443-5457
- P.O. BOX 280  
KOTZEBUE, ALASKA 99752  
(907) 442-3675
- 1514 CUSHMAN RM. 211  
FAIRBANKS, ALASKA 99701  
(907) 452-7126

The Honorable Frank Ferguson  
February 17, 1983  
Page 2

The Commission is aware of the following borough formation and annexation studies either recently completed or in progress:

1. Yukon Flats
2. Prince of Wales Island
3. The AVCP study of the Yukon-Kuskokwim Delta area
4. AHTNA
5. NANA Borough feasibility study
6. The Ketchikan Gateway Borough Quartz Hill annexation
7. Kodiak Island Borough annexation of Shelikof Straits and SE side of AK Peninsula.

The other item of special concern to the Commission is the petition of the City of Togiak.


The City of Togiak submitted a Legislative review Petition to annex approximately 51.7 square miles. The Commission has rejected the annexation as it failed to meet any of the standards for annexation. However, the Commission does recognize that there exists a seasonal need for police services in the territory east of the City which contains the Togiak Fisheries Cannery and the unincorporated community of Twin Hills. To provide this police protection the Commission is recommending to the Legislature that it create a police service area under authority in AS 29.03.020 to include the City of Togiak and the territory originally proposed for annexation. The service area could be administered in the following manner:

1. Create a Togiak Bay Service Area Board of Governors with representation from the City of Togiak and the community of Twin Hills.
2. Authorize the funding of the police service area through the distribution of raw fish tax currently being collected from the Togiak Fisheries Cannery and adjacent floating fish processors.
3. Direct the Police Service Area Board of Governors to contract with the City of Togiak for provision of police services within the service area.
4. Direct the Department of Community & Regional Affairs to assist the Togiak Bay Police Service Area Board of Governors in the development of a code of ordinances for police services within the service area.

The Honorable Frank Ferguson  
February 17, 1983  
Page 3

It is not the intent of the Commission to neglect any discussion on the other recommendations presented to the Legislature. However, the commission feels that the previously discussed issues warrant your special attention.

Sincerely,

A handwritten signature in cursive script that reads "Sheila Gallagher". The signature is fluid and connected, with a large initial 'S' and 'G'.

Sheila Gallagher



Official Business

# Alaska State Legislature

Senate

Office of the Secretary

January 27, 1983

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM TO: Senator Ferguson, Chairman  
Community and Regional Affairs

From: Peggy Mulligan, <sup>Am</sup> Secretary of the Senate

Subject: Recommendations of the Local Boundary  
Commission - January 26, 1983

Attached is State of Alaska Local Boundary Commission Report of 1982 Activities of the Local Boundary Commission and

Recommendations to the First Session of the Thirteenth Legislature for Certain Municipal Boundary Changes. This report was signed for by the Secretary of the Senate on the tenth legislative day as required by law.

These recommended boundary changes become effective forty-five days after presentation (Saturday March 12) or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. Twelve recommendations are enclosed in the report.

January 24, 1983

ORA

Jalmar M. Kerttula  
President of the Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Kerttula:

Attached hereto is the Report of 1982 Activities of the Local Boundary Commission and Recommendations to the First Session of the Thirteenth Legislature for Certain Municipal Boundary Changes by the Local Boundary Commission. The report contains recommendations for changes to the boundaries of three municipalities which, pursuant to Article X, Section 12 of the State Constitution and ~~AS 29.68.010~~, are to be presented to the Legislature. These recommended boundary changes become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

Sincerely,



Sheila Gallagher  
Chairman  
Local Boundary Commission

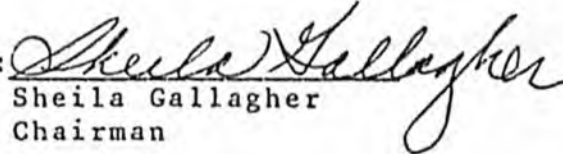
Received 1/26/83  
Senate Sec. office

# STATE OF ALASKA

## LOCAL BOUNDARY COMMISSION

REPORT OF 1982 ACTIVITIES OF THE LOCAL BOUNDARY COMMISSION  
AND RECOMMENDATIONS TO THE FIRST SESSION  
OF THE THIRTEENTH LEGISLATURE  
FOR CERTAIN MUNICIPAL BOUNDARY CHANGES

Submitted by:

  
Sheila Gallagher  
Chairman

January 26, 1983

## INTRODUCTION

The Local Boundary Commission was established pursuant to Article X Section 12 of the State Constitution and Section 44.47.565 of the Alaska Statutes for the purposes of considering municipal incorporations and boundary changes.

Municipal incorporations are effected under the provisions of AS 29.18.011-180. It is the responsibility of the Local Boundary Commission to review and act on all petitions for municipal incorporations in accordance with AS 29.18, 19 AAC 10.010-030 and 19 AAC 10.325-440.

Municipal boundary changes (annexation and detachments) may be effected by Local Boundary Commission action through either of two general procedures:

- A. Legislative Review - The legislative review boundary change procedure assures an objective examination of the merits of a proposed municipal boundary change. In that the decision on such matters rests with the Local Boundary Commission and the Legislature, this process assures that decisions will be made with the greatest consideration given to the application of regulatory standards concerning such matters.

This process is typically initiated by municipalities in situations where there is a compelling need for the proposed boundary change, but where a majority of the residents in the territory included in the proposed boundary change oppose it.

Under this process the Local Boundary Commission may accept and review any proposed local government boundary change. Once the Local Boundary Commission has accepted a petition proposing a local government boundary change, the Commission conducts a public hearing in the municipality proposing the boundary change. If, after the public hearing is completed, the proposed boundary change is approved by the Local Boundary Commission, the Commission presents a recommendation for the change to the Legislature during the first 10 days of any regular session. The recommended change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

- B. Local Action - Municipal boundary changes subjected to this process gain final approval at the local level. The following discussion examines the three types of local action boundary change procedures:

1. An area adjoining a municipality may be annexed or detached by municipal ordinance without an election, provided all property owners and voters within the area

petition the assembly or council. The annexation becomes effective with the consent of a majority of the Local Boundary Commission members.

2. Municipally owned property adjoining the municipality may be annexed by ordinance without voter approval. The annexation becomes effective with the consent of a majority of the Local Boundary Commission members.
3. A proposition for the annexation or detachment of territory may be submitted to the voters residing within the area of the proposed boundary change. To become effective the proposed boundary change must be approved by a majority of such voters. Before the proposition is submitted to the voters, the Local Boundary Commission must approve a petition for the proposed boundary change.

The Local Boundary Commission consists of five members, one from each of the four Judicial Districts of the State, plus one member at large. The Commission members serve without compensation at the pleasure of the Governor. The current members of the Commission are:

SHEILA GALLAGHER, Chairman, serving at large;  
JOSEPHINE ANDERSON, member from the First Judicial District;  
BERT GREIST, member from the Second Judicial District;  
SIGVALD STRANDBERG, member from the Third Judicial District; and  
CHARLES BETTISWORTH, member from the Fourth Judicial District.

Staff support for the Local Boundary Commission is provided by the Department of Community and Regional Affairs, Local Government Assistance Division.

This document contains a report of the Commission's activities during 1982. More importantly, it contains recommendations to the First Session of the Thirteenth Legislature for changes to the boundaries of three municipalities, pursuant to Article X, Section 12 of the State Constitution and AS 29.68.010. These recommended boundary changes become effective forty-five days after presentation or at the end of the Session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

In addition, this document contains recommendations that the Legislature: 1) create a police service area in the vicinity of Togiak Bay; 2) review the inequities in the delivery of services to residents of organized boroughs as compared to those areas of the unorganized borough which meet the regulatory standards for creation of borough governments (19 AAC 10.160-180); and 3) consistent with the Legislature's constitutional mandate (Article X Sec. 3) to divide the State into boroughs, organized or unorganized, should examine the creation of boroughs in areas of the State where borough creation standards are met.

SUMMARY OF ACTIVITIES OF THE  
LOCAL BOUNDARY COMMISSION DURING 1982

During 1982 the Local Boundary Commission dealt with petitions concerning the following proposed municipal incorporations and boundary changes:

- 1) FAIRBANKS NORTH STAR BOROUGH - The Commission approved the petition for the annexation of Eielson Air Force Base, comprising approximately 446.06 square miles. The proposed annexation is subject to Legislative review of the recommendation submitted on pages five through eight of this document.
- 2) CITY OF PORT LIONS - The Commission approved the petition for annexation of approximately 8.5 square miles. The proposed annexation is subject to Legislative review of the recommendation submitted on pages nine through eleven of this document.
- 3) CITY OF HAINES - The Commission approved the petition for annexation of approximately 15.5 acres. The proposed annexation is subject to Legislative review of the recommendation submitted on pages twelve through fourteen of this document.

On February 19, 1983, the Commission is scheduled to conduct a public hearing in the City of Haines to determine if additional territory should be annexed to the City.

- 4) CITY OF TOGIAK - The Commission denied the petition for annexation of 51.7 square miles. However, as formally presented on pages fifteen through nineteen of this document, the Commission recommends that the Legislature create a police service area in the unorganized borough in the Togiak Bay area, including the community of Twin Hills and the City of Togiak.
- 5) MATANUSKA-SUSITNA BOROUGH - The Commission denied the petition for the detachment of 432 square miles in and around the community of Lake Louise from the Matanuska-Susitna Borough. However, as formally presented on pages twenty through twenty-two of this document, the Commission recommends that the Legislature examine the inequities in the delivery of services to residents of organized boroughs as compared to areas of the unorganized borough which meet the regulatory standards for creation of borough governments (19 AAC 10.160-180) and that the Legislature mandate the creation of boroughs in areas where such standards are met.

- 6) CITY OF TELLER - The Commission approved the annexation of 1.835 square miles. The proposed annexation was contingent upon voter approval pursuant to AS 29.68.010(1). Such approval was subsequently granted.
- 7) CITY OF KETCHIKAN - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 27.3 acres requested by all of the property owners and resident voters involved.
- 8) CITY OF PALMER - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 38.5 acres requested by all of the property owners and resident voters involved.
- 9) CITY OF PALMER - Pursuant to AS 29.68.010(3), the Commission approved the annexation of approximately 3.2 acres requested by all of the property owners and resident voters involved.
- 10) CITY OF ATQASUK - The Commission approved the petition for the incorporation of Atqasuk as a city of the second class, pursuant to AS 29.18. Atqasuk voters subsequently approved the proposed incorporation. The City's boundaries encompass approximately 42.875 square miles.
- 11) CITY OF THORNE BAY - The Commission approved the petition for the incorporation of Thorne Bay as a city of the second class, pursuant to AS 29.18. Thorne Bay voters subsequently approved the proposed incorporation. The City's boundaries encompass approximately 22.50 square miles.
- 12) CITY OF KASIGLUK - The Commission approved the petition for the proposed detachment of Kasigluk from the City of Akolmiut and the subsequent incorporation of Kasigluk as a city of the second class, pursuant to AS 29.18. Kasigluk voters approved the proposed detachment and subsequent incorporation. The City's boundaries encompass approximately 16 square miles.

The incorporation of the Cities of Atqasuk, Thorne Bay and Kasigluk bring the total number of municipal corporations in the State to 155.

STATE OF ALASKA  
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER ONE TO THE  
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

---

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY  
TO THE FAIRBANKS NORTH STAR BOROUGH

WHEREAS, on September 17, 1982 the Fairbanks North Star Borough submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with the applicable laws and regulations of the State of Alaska. The petition proposed the annexation of Eielson Air Force Base comprising approximately 446.06 square miles; and

WHEREAS, on October 19, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on November 29, 1982 the Commission held a public hearing in Fairbanks on the petition for annexation; and

WHEREAS, on November 29, 1982 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the public hearing conducted on the matter, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. Eielson Air Force Base is entirely surrounded by, but is excluded from, the Fairbanks North Star Borough.
2. The Eielson Air Force Base school is operated by the Borough School District on a contractual basis. The Fairbanks North Star Borough School District offers educational services to the Base students commensurate with services provided to Borough students.
3. The residents of the Base make ready use of and benefit from many of the facilities and services provided by the Borough. In addition to education, such facilities and

services include parks, recreation, libraries and the transit system.

4. The Eielson Air Force Base sanitary landfill is reaching its capacity. The Borough exercises the areawide solid waste disposal power and has made plans for the accommodation of solid waste from Eielson Air Force Base.
5. The Soldiers and Sailors Civil Relief Act (USC APPX SEC. 574) exempts military personnel from property taxation. As such, the annexation will not result in the payment of property taxes by the Base residents. However, based upon current data the addition of Base residents to the Borough's population will annually increase the Borough's Municipal Assistance funding by approximately \$750,000 and its State Revenue Sharing funding by approximately \$275,000.
6. Residents of Eielson Air Force Base may not participate in the democratic processes which guide the municipality's direction and growth. So long as these individuals reside outside the municipality's boundaries, they are precluded from membership on the Borough Assembly. Furthermore, residents of the Base may not vote for members of the Assembly and may not vote on Borough referenda or initiatives. Annexation would extend such opportunities to these individuals.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation to the Fairbanks North Star Borough of the territory shown on page eight. If the annexation is approved by the Legislature, the boundaries of the Fairbanks North Star Borough will read as follows:

Beginning at the NW Corner of T4N, R5W, Fairbanks Meridian;

Thence easterly along the north line of T4N to the ridge between the headwaters of Trail and Poker Creeks;

Thence northeasterly following this ridge south of Ophir and Nome Creeks and around the headwaters of Hope and Charity Creeks;

Thence southeasterly following the ridge south of the headwaters of Bachelor and McKinley Creeks across the Steese Highway at Twelvemile Summit;

Thence following the divide around the headwaters of Harrington and Crooked Creeks;

Thence around the headwaters of Boulder Creek and the North Fork of the Chena River to the summit of Far Mountain;

Thence easterly along the divide around the headwaters of Lawson Creek and Cash Creek;

Thence following the ridge north of the headwaters of the East Fork of the Chena River and around the headwaters of the Salcha River;

Thence southerly around the headwaters of Lost Creek to the ridge north of the Goodpaster River;

Thence southwesterly along this ridge, around the headwaters of Indian Creek, Gillis Creek, and Rosa Creek and continuing along the ridge between Buckeye Creek and Tenderfoot Creek across the Richardson Highway to a point in midstream of the Tanana River;

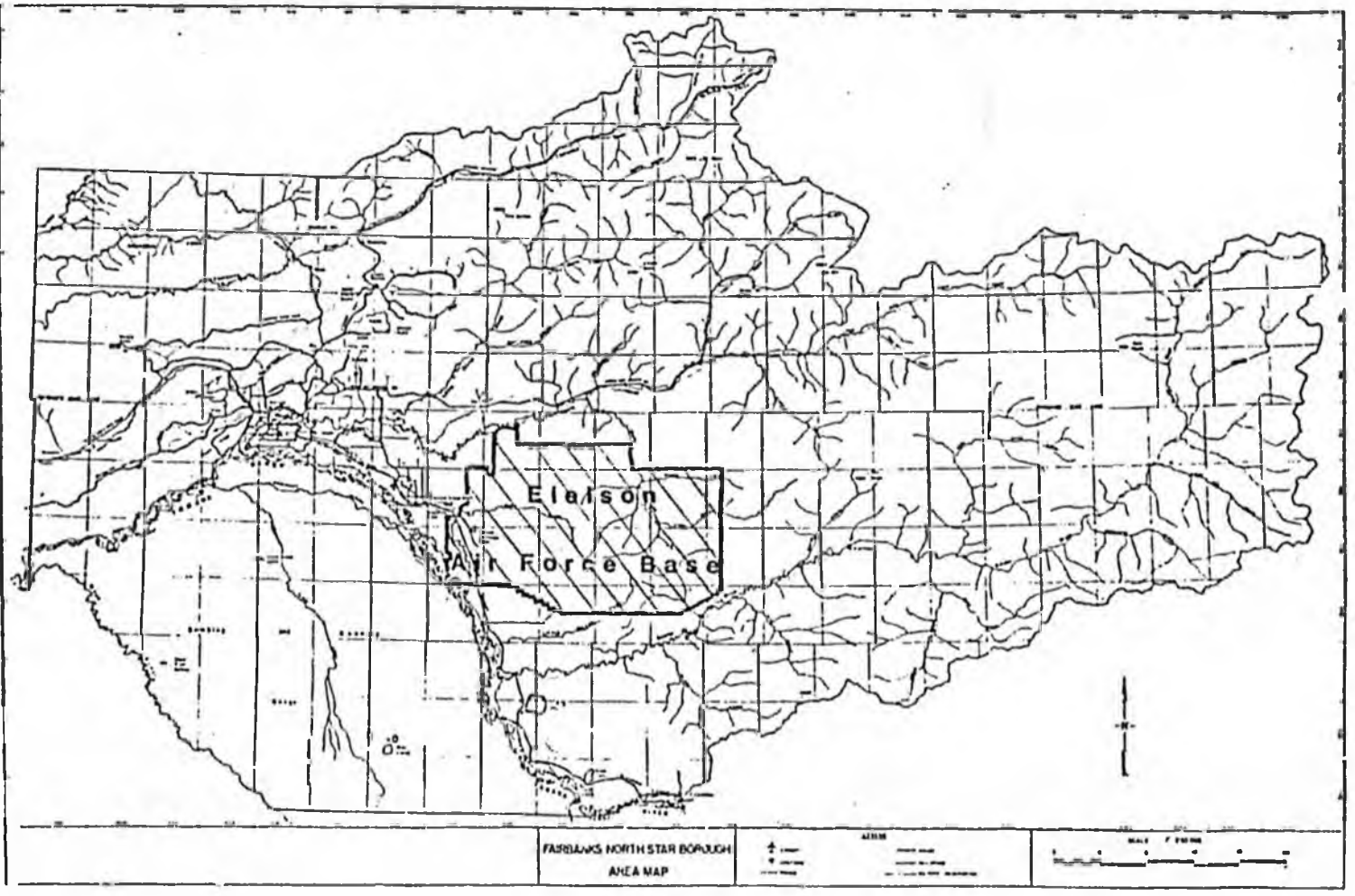
Thence downstream in midstream of the Tanana River to its intersection with the south line of T7S;

Thence west on this township line to a point midstream in the Wood River;

Thence downstream in midstream of the Wood River to a point midstream in the Tanana River;

Thence north and east in midstream of the Tanana River to its point of intersection with the west line of R5W;

Thence north on this range line to the NW Corner of T4N, R5W, the point of beginning.



STATE OF ALASKA  
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER TWO TO THE  
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

---

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY  
TO THE CITY OF PORT LIONS

WHEREAS, on October 24, 1982 the City of Port Lions submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with the applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 2.18 square miles; and

WHEREAS, on November 17, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 17, 1982 the Commission held a public hearing in the City of Port Lions, on the petition for annexation; and

WHEREAS, on December 17, 1982 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the public hearing conducted on this matter, the Commission made the following findings of fact and entered its decision pursuant thereto:

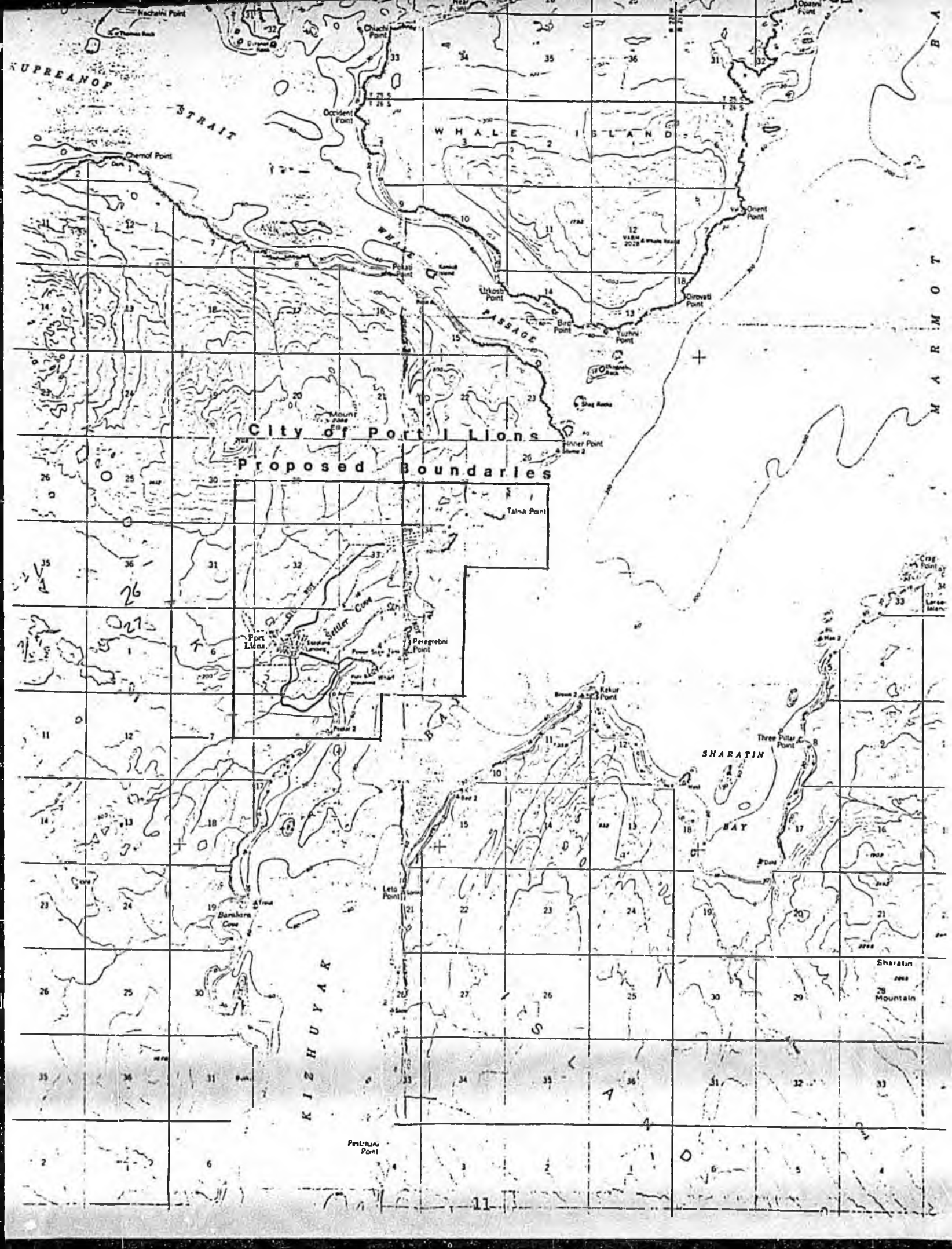
1. The City provides emergency medical services, fire protection and police protection to those residents living outside of the City. Additionally, the City provides water and sewer utility service and road maintenance to residents of the upper half of the new subdivision which is outside the present City boundaries. Airport and road maintenance is also provided by the City beyond the City boundaries through a contractual agreement with the State. The Kodiak Island Borough does not have a service area for road maintenance, fire protection, water or sewer in the Port Lions area. Therefore, the City of Port Lions is the

most appropriate entity to provide such services to those individuals living outside of the City boundaries.

2. An area beyond the City boundaries has been identified by the City as a future park. A new subdivision is being developed outside the municipal boundaries; the City's watershed is also outside the municipal boundaries. The annexation of the territory in U.S. Survey #5509 would encompass these areas.
3. The road passing through U.S. Survey #1736 connects the two noncontiguous parts of the City. There is a reasonable likelihood that future growth and development will occur along this road. A portion of the territory proposed for annexation has been identified for industrial and commercial development.
4. Individuals residing outside of the municipal boundaries may not participate in the democratic processes which guide the municipality's direction and growth. So long as these individuals reside outside of the municipality's boundaries, they are precluded from holding office on the City Council. Furthermore, these residents may not vote for members of the City Council and may not vote on referenda or initiative. Annexation would extend such opportunities to these individuals.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation to the City of Port Lions of the territory shown on page eleven. If the annexation is approved by the Legislature, the boundaries of the City of Port Lions would read as follows:

Beginning at the northwest corner of the NE 1/4 of the SE 1/4 of protracted Section 30, T26S, R22W, Seward Meridian (S.M.); thence due south to the southwest corner of the SE 1/4 of the NE 1/4 of protracted Section 7, T27S, R22W, S.M.; thence due east to the southeast corner of the NW 1/4 of protracted Section 9, T27S, R22W, S.M.; thence north to the southeast corner of the SW 1/4 of protracted Section 4, T27S, R22W, S.M.; thence due east to the southeast corner of the SW 1/4 of protracted Section 3, T27S, R22W, S.M.; thence due north to the southwest corner of the NE 1/4 of protracted Section 34, T26S, R22W, S.M.; thence due east to the southeast corner of the NW 1/4 of protracted Section 35, T26S, R22W, S.M., thence due north to northeast corner of the SW 1/4 of protracted Section 26, T26S, R22W, S.M.; thence due west to the northwest corner of the NE 1/4 of the SE 1/4 of protracted Section 30, T26S, R22W, S.M., the true point of beginning, containing 8.75 square miles, more or less; in the Third Judicial District of the State of Alaska.



STATE OF ALASKA  
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER THREE TO THE FIRST SESSION  
OF THE THIRTEENTH LEGISLATURE

---

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY  
TO THE CITY OF HAINES

WHEREAS, on September 22, 1982 the City of Haines submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 3.5 square miles; and

WHEREAS, on October 6, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 12, 1982 the Commission held a public hearing in the City of Haines on the petition for annexation, but said hearing was interrupted by a power outage.

WHEREAS, on January 8, 1983 the Commission attempted to hold a second public hearing in the City of Haines, but was prevented from doing so by weather conditions; and

WHEREAS, on January 9, 1983 the Commission concluded that it had sufficient information to hold a decisional session on the annexation of the municipal port facilities to the City of Haines; and

WHEREAS, on January 14, 1983 the Commission rendered its decision on the petition for annexation;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the answering brief submitted by the Haines Borough Citizens Against Annexation, the investigation of and report on the petition by the Department, and the information obtained from the City of Haines public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The City of Haines owns and operates extensive port facilities extraterritorially. The port facilities consist of the six-acre dock, a barge offloading facility and approximately 54 acres of unimproved uplands.

2. AS 29.48.030(3) grants municipalities the power necessary to provide harbors, wharves and other marine facilities. AS 29.48.037, however, establishes limitations of extraterritorial jurisdiction to specific facilities. At the present time municipalities are not granted powers of extraterritorial jurisdiction for port facilities. The municipal dock is a public facility, purchased and improved with public funds and is operated by the City of Haines for the public convenience and necessity. The extension of a municipal jurisdiction by annexation is necessary to comply with existing State statutes and to incorporate port facilities within the broader framework of City government.
3. There is a reasonable likelihood that future growth and development will occur within the City's port facilities and that the annexation of this territory will enable the City to plan for and control that development.

THEREFORE, the Commission hereby recommends to the First Session of the Thirteenth Legislature of the State of Alaska, annexation of the following described territory, (as shown on page fourteen) to the City of Haines:

The City of Haines Port Facilities at Lutak Harbor including all portions of the dock, the barge offloading facility and all the land beneath said facilities and seaward 400 feet in all seaward directions, containing approximately 15.5 acres.

FURTHER, the Commission acknowledges the necessity for further evaluation of the need for annexation of territory between the current boundaries of the City of Haines and the City port facilities and populated areas of the Haines Borough outside of the City of Haines; and

THEREFORE, the Commission may develop a recommendation for the annexation of additional territory to the City of Haines to be presented to the Second Session of the Thirteenth Legislature.



STATE OF ALASKA  
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER FOUR TO THE FIRST SESSION  
OF THE THIRTEENTH LEGISLATURE

---

CREATION OF A POLICE SERVICE AREA  
IN THE UNORGANIZED BOROUGH IN  
THE TOGIAC BAY AREA .

WHEREAS, on September 30, 1982 the City of Togiak submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with applicable laws and regulations of the State of Alaska. The petition proposed the annexation of approximately 51.7 square miles; and

WHEREAS, on November 17, 1982 the Department determined the petition to be acceptable as to form and content; and

WHEREAS, the Department caused to be published, proper notice of filing of the petition for annexation; and

WHEREAS, on December 16, 1982 the Commission held a public hearing in Togiak, on the petition for annexation; and

WHEREAS, on January 14, 1983 the Commission held a decisional meeting on the annexation petition and rendered its decision on the petition;

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the Togiak public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The territory proposed for annexation by the City of Togiak is located to the east of the current boundaries of the City. The territory is not surrounded by the City.
2. The territory proposed for annexation is not owned by the City.

Much of the the territory proposed for annexation by the City of Togiak includes the territory proposed for selection by the community of Twin Hills pursuant to the provisions of 14(c)(3) of the Alaska Native Claims Settlement Act. Representatives of the community of Twin Hills contend that the territory proposed for annexation

includes territory which the village of Twin Hills will need for future expansion and for municipal purposes should it incorporate.

The community of Twin Hills is constructing a road from the community to Togiak Bay. This road will connect the community with the area it has selected for the staging of its fishing activities. In addition, the map on page nineteen of this report identifies lands being selected by the village of Twin Hills. These selections will be used by the area for future growth of the community, including the development of a solid waste disposal site and commercial ventures. All of these sites are within the territory proposed for annexation.

3. The vast majority of the territory proposed for annexation by the City of Togiak has no population. However, the cannery site in the area proposed for annexation does have seasonal population influxes and is a major site of fishing activity in the Togiak Bay area. Additionally, several floating packers enter the area proposed for annexation in the summer months.
4. The Togiak Fisheries Cannery, which is within the territory proposed for annexation, employs a large number of workers each summer. Many of the Togiak residents are associated with the Togiak Fisheries Cannery, and have personal property at the cannery site. The City feels that police protection should be extended to this area to provide protection for Togiak residents and their property. Currently, the cannery site is within the jurisdiction of the Alaska State Troopers.

The City of Togiak prohibits the sale and importation of alcoholic beverages within its boundaries. For this control to be effective, the City of Togiak feels that prohibition on the sale and importation of alcoholic beverages must be extended to the cannery area. However, AS 04.11.496 provides that the enactment by a municipality of a prohibition on the sale and importation of alcoholic beverages also restricts the sale of alcoholic beverages within five miles of the boundaries of the municipality.

5. The community of Togiak has grown from a population of 71 in 1930 to 511 in 1981. This has largely been the result of the viable economic base in the community of Togiak. The village corporation is constructing a new cannery within the City. A large scale commercial herring fishery has existed in Togiak since 1977. There is every indication that this growth will continue.

The growth the City of Togiak has experienced has been restricted to the present boundaries of the City. The most notable recent growth is the development of the new cannery by the Togiak Village Corporation. As previously mentioned, the community of Twin Hills views the area proposed for annexation as the territory it needs for the future growth of its own prospective municipality. If this territory was annexed by the City of Togiak, there would be little viable opportunity for the community of Twin Hills to incorporate.

The Commission feels there exists the likelihood of economic growth and development within the territory proposed for annexation. This potential for growth should be viewed as economic potential for the community of Twin Hills, not the City of Togiak.

6. Togiak residents work and own property in the area proposed for annexation. The City feels that it is necessary to annex this area to ensure the residents' safety. Although the City reports that this situation exists, no supporting documentation has been provided to the Commission. As stated earlier, the City of Togiak prohibits the importation and sale of alcohol, although alcohol may be transported by boat into areas of Togiak Bay that are outside a five mile radius of the municipal boundaries.

The Commission feels that adequate protection exists for Togiak residents without expanding municipal boundaries, and the provisions relating to the prohibition of the sale and importation of alcoholic beverages should sufficiently safeguard against the sale of alcoholic beverages within the vicinity of the City. However, the Commission does recognize that the cannery workers and fishermen in the area proposed for annexation and the residents of the community of Twin Hills do have a need for police protection during the fishing season.

7. The municipal boundaries need not be extended to include the Togiak Cannery area in order for the adequate protection of the Togiak residents and for the adequate enforcement of the alcohol importation prohibition to be effective .
8. There are only seasonal workers in the area proposed for annexation. However, as they are across the Bay from the City of Togiak it is doubtful that they receive any direct services from the City. If goods are purchased in the City of Togiak by these nonresidents, then all sales are subject to a 2 percent sales tax. The owners of the cannery in the territory proposed for annexation employ a year round watchman to protect cannery property.

9. The Commission is not aware of any public purpose to be accomplished through the annexation of this territory.

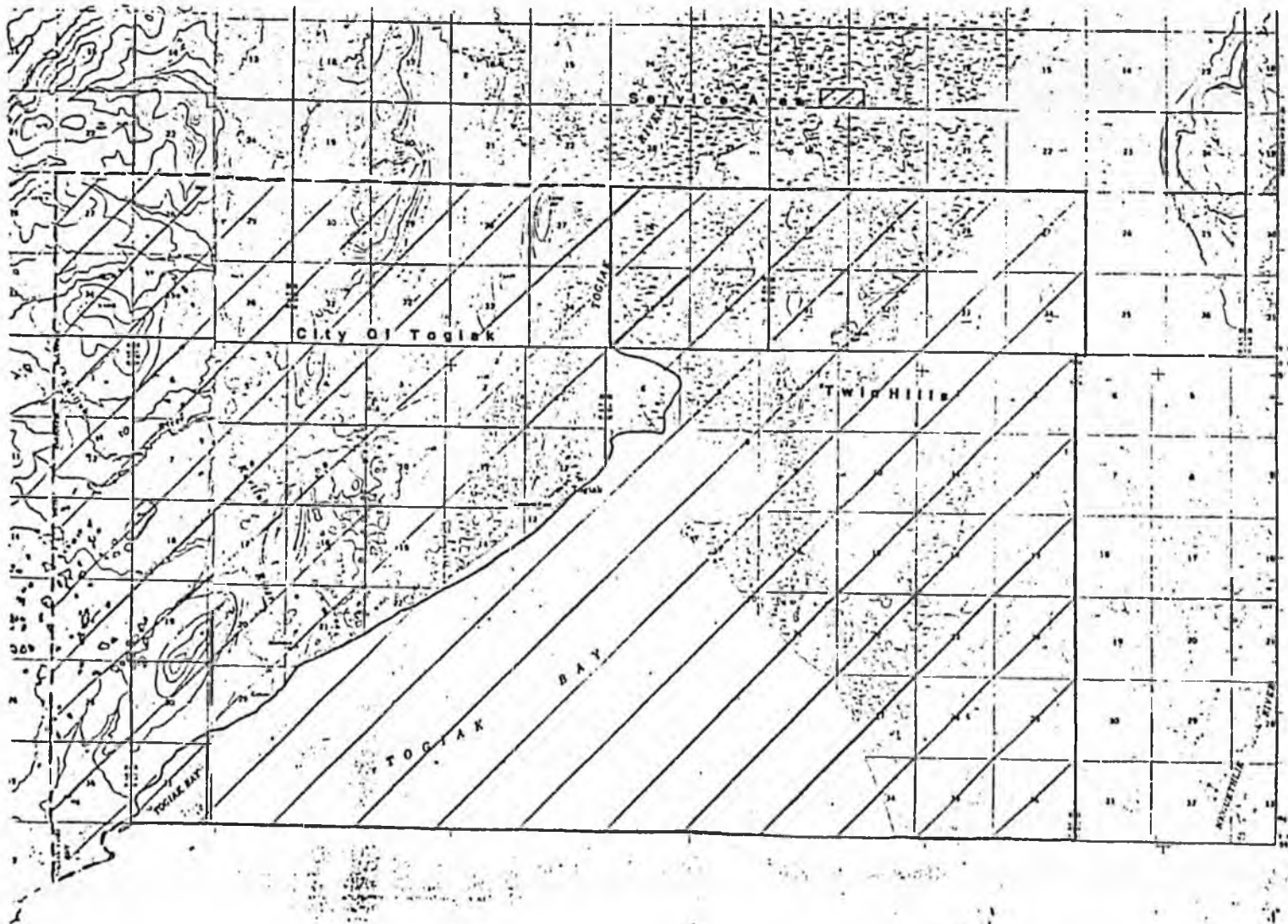
THEREFORE, the Commission denied the petition for annexation.

The Commission finds further, that there exists a need for the extension of police powers into the territory purposed for annexation and the community of Twin Hills;

THEREFORE, the Commission recommends to the First Session of the Thirteenth Legislature of the State of Alaska that it create a service area pursuant to AS 29.03.020 to provide police powers to the area as shown on page nineteen;

THEREFORE, the Commission recommends that the Legislature establish the service area with the proviso that the City of Togiak provide police services on a contractual basis to the service area as described below;

The City of Togiak and the following protracted townships, sections or fractions of sections; within T13S, R66W, Seward Meridian (S.M.); sections and fractions of Sections 27, 28, 29, 30, 31, 32, 33, and 34 within T12S, R65W, S.M.; sections and fractions of Sections 25, 26, 35, and 36 within T12S, R66W, S.M., presently not within the City of Togiak boundaries; and the remainder of sections and fractions of sections within T13S, R67W, S.M., presently not within the City of Togiak boundaries.



STATE OF ALASKA  
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER FIVE TO THE  
FIRST SESSION OF THE THIRTEENTH LEGISLATURE

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RECOMMENDATION THAT THE LEGISLATURE REVIEW  
THE INEQUITIES IN THE DELIVERY OF SERVICES TO  
RESIDENTS OF ORGANIZED BOROUGHS AS COMPARED  
TO THE UNORGANIZED BOROUGH

WHEREAS, on July 29, 1982 the Department received the petition for the detachment of the 432 square miles of territory surrounding Lake Louise from the Matanuska-Susitna Borough; and

WHEREAS, on August 6, 1982 the Department determined the petition to be acceptable as to form and content and forwarded the petition to the Matanuska-Susitna Borough Assembly for review and comment; and

WHEREAS, in accordance with 19 AAC 10.640, on August 17, 1982 the Matanuska-Susitna Borough Assembly held a public review of the petition and submitted the petition with the Borough's Answering Brief to the Department on August 20, 1982; and

WHEREAS, the Department caused to be published proper notice of filing of the petition for annexation; and

WHEREAS, on September 25, 1982 the Commission held a public hearing in the community of Lake Louise, on the petition for annexation; and

WHEREAS, on January 8, 1983 the Commission rendered its decision on the petition for detachment;

Based upon the extensive briefing of the petitioner, the answering brief of the Matanuska-Susitna Borough, the investigation of and report on the petition by the Department, and the information obtained from the Lake Louise public hearing, the Commission made the following findings of fact and entered its decision pursuant thereto:

1. The Borough form of government establishes a means of providing local government for an area of the state which is culturally, economically and geographically related. If the Lake Louise territory was allowed to detach, it would become part of the unorganized borough. Such detachment would remove a portion of an organized borough which has been functioning and providing services on a

regional basis for the past eighteen years. The needs of the Lake Louise area which are provided by the Borough would then become the State's responsibility.

The Matanuska-Susitna Borough would be adversely affected by the detachment of the Lake Louise area. It would reduce the assessed value of the Borough by \$6,941,700. As the bonding capability of the Borough is based upon the level of taxable property, the uncertain future of current boundaries would have a debilitating affect upon the Borough's bonding rating and its capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough and other boroughs of the State that are of a similar circumstance; such detachment would set a precedent for the future detachment proceedings from organized boroughs.

2. The Matanuska-Susitna Borough has 20,544 square miles within its jurisdiction, with a population of 19,123. This immense area contains a diversity of social, cultural and economic settings. More than 70% of all Borough residents live outside the four largest communities (Palmer, Wasilla, Houston, and Talkeetna). The rural population of the Borough has many similarities in that it is distributed along the road system, it experiences a high rate of unemployment and seasonal work, and has moved to the rural areas of the Borough within the last 20 years. There are no indications that the residents of the Lake Louise community differ substantially from many of the Borough residents residing in the rural areas of the Borough.
3. The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a nonareawide mill rate of 0.5 mills. The areawide functions are primarily involved with the education, school bonded debt service, planning, land management and taxation. The remoteness and insignificant school age populations of Lake Louise have, from a practical standpoint, limited Borough services. However, that is not to say that with the future anticipated growth within the Lake Louise area, the residents and future residents could not receive services commensurate with the rest of the Matanuska-Susitna Borough.
4. Communications with the Lake Louise area are more difficult than in many other areas of the Matanuska-Susitna Borough. The community has limited telephone service in that it can only be reached through a radio dispatch phone service in Anchorage. The Lake Louise area is on the east side of the Talkeetna mountains, which does separate it from the more populated areas of the Borough lying west of the mountains. This

does make immediate communication between the Borough government and the community relatively difficult. However, the community of Lake Louise is accessible by road on a year round basis. This enables the community to receive scheduled mail service. Therefore, it can be concluded that although communication and transportation services to the Lake Louise area are relatively difficult, they do not preclude the exchange necessary for responsive integrated local government.

5. There will be a significant land disposal effort in the Lake Louise area during the next three years. The State of Alaska is planning to subdivide and distribute land in the Lake Louise area in the immediate future. It is anticipated that 2,635 parcels of land will be transferred from State ownership to private ownership during the next three years. As a result of the anticipated population growth in the Lake Louise area, the planning and zoning efforts of the Borough will intensify in the Lake Louise area.

Based on its findings the Commission denied the petition for detachment.

However, the Local Boundary Commission's deliberations on the Lake Louise detachment petition accentuates the inequity in the delivery of services in organized boroughs as compared to the unorganized borough. Residents of organized boroughs pay substantial property taxes to support the cost of local government services, while residents of the unorganized borough pay no taxes to support similar services provided by the State. The predicted decline in State revenues exacerbates the necessity for a thorough examination of the need for the creation of boroughs within the State. The Commission recommends to the First Session of the Thirteenth Legislature that it review the inequities in the delivery of services to residents of organized boroughs throughout the State as compared to the unorganized borough; and

The Commission further recommends that the Legislature examine the unorganized borough and identify areas of the unorganized borough which meet the regulatory standards (19 AAC 10.160-180) for creation of borough governments. Furthermore, the Commission recommends that, consistent with the Legislature's constitutional mandate (Article X Sec. 3) to divide the State into boroughs, organized or unorganized, the Legislature should examine the creation of boroughs in areas of the State where borough creation standards are met.



# THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 8, 1983

Senate Community and  
Regional Affairs Committee  
Juneau, Alaska

File: Legislature - 1983 - Senate Bill 1

Gentlemen:

Please consider the following recommendations in your deliberations on Senate Bill 1.

On page 42, line 22, insert the phrase "charter or" immediately before the word "ordinance." In at least one community, and possibly others, this matter is dealt with by a charter provision rather than by ordinance.

On page 56, beginning at line 25, I suggest that lines 25 through 29 be deleted along with the reference to this section under the home rule laundry list at line 17 on page 23. Alaska Statute 36.25.025 applies to all municipalities whether home rule or general law. If a home rule municipality wishes to exempt its contractors from those provisions it must do so in accordance with the procedures set out in AS 36.25.025. Those procedures clearly specify the use of an ordinance to establish the exemption.

Page 76, line 17. Although this is the language used in the present law, I think it is inartful. Municipalities do not exercise the right of eminent domain merely to determine fair market value. Eminent domain is used to acquire property. The determination of fair market value is merely one of the incidences of acquiring property through the use of eminent domain. I suggest the phrase "determine fair market value" which starts in line 16 be deleted and replaced with the phrase "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Page 78, beginning at line 25 and extending through line 8 on page 80. I think this entire section is unneeded. The authority for a municipality to enter into a joint agreement for the exercise of one of its powers or functions with other municipalities, the state and the federal government is found in Section 13 of Article 10 of the Alaska Constitution. The subject section in the Bill just provides unnecessary details. It is my recollection that this section was included in the revision because it was adopted either while the Title 29 Revision Committee was revising Title 29 or shortly after the committee produced its revision. It was incorporated in the revision without substantive review. We do not have provisions in the code detailing the procedures for entering into joint

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agreements with the Forest Service for fire protection of rural properties of mutual concern, or for joint state, federal, and local drug enforcement operations or for a host of other municipal functions which are exercised jointly or in cooperation with state or federal agencies or other municipalities. I strongly suggest that this section be eliminated as it is not only superfluous, but its existence may lead courts to two unfortunate conclusions; first, that the only way municipalities may engage in a cooperative or joint emergency service communication center is as provided in the subject section; and second that inasmuch as the legislature went to great pains to detail the procedures and structures for joint operation of emergency communication centers, other similar joint operations must have specific and detailed legislative authorization. It was for these types of reasons that the technical committee for the Title 29 revision recommended striking or generalizing such detailed procedures found in the present Title 29. If there is some feeling that striking this section would jeopardize the authority of municipalities to enter into such arrangements, I suggest the section be struck and replaced with a new section under the general powers portion of the Bill which would authorize a municipality to enter into an agreement or association, including membership in a corporation, with any other municipality, the state, or federal agencies, for the purpose of exercising any power or function of the municipality.

Page 96, beginning at line 5. Subsection (c) of this section makes subsections (a) and (b) applicable to all home rule municipalities. Actually, there appears to be little need to have this apply to any home rule municipality; however, because subsection (a) deals with the different disposition of a vacated public square depending on whether the square is within a city or outside a city but within the borough, it may be appropriate to make subsection (a) applicable only to home rule boroughs and general law municipalities. In addition, the last sentence of subsection (a) which begins in line 17 could lead to some very awkward situations. If, in the original plat, a lot is dedicated as a holding area for storm waters, or as a park or for some other non-street use and is later vacated because the lot is no longer needed for that purpose it may be very difficult to determine who is the "rightful" owner; and if this "rightful" owner is someone other than the abutting property owners, it may be impossible to locate the owner. I suggest deletion of the sentence which begins on line 17, and in line 14, just before the word "public" the insertion of the phrase "lot or".

Page 105, beginning at line 7. I don't think that the definition of "developed" clarifies anything. For example, when a native corporation subdivides some of its property and puts in roads and

utilities, that would seem to be "developed" under the common use of that word; however, this definition casts serious doubts as to whether such land would be developed for tax purposes. Lines 19 and 20 establish a situation which is contrary to the subdivision laws and will create problems if there is a tax foreclosure on non-exempt land. Unless I read this part of the section incorrectly, its intent is to limit the loss of the exemption to only that portion of the parcel which is developed. That is, if the corporation owns a U.S. Survey consisting of 25 acres and it develops three acres of that parcel with an industrial park, only the three acres would be taxable. The problem this approach creates is that if the municipality forecloses on the property it must foreclose on the parcel of record; that is, the 25 acre parcel and not some lesser parcel. If it were to foreclose on a parcel other than a parcel of record, the foreclosure proceeding would have the effect of subdividing the property without going through the platting procedure. Therefore, I suggest that the language relating to the loss of the exemption to the smallest practicable tract be deleted. The corporation may protect its remaining property by subdividing the parcel into two lots; one which will be developed and will lose its exemption, and one which will not be developed. This will protect the undeveloped property.

Page 106, beginning at line 1. I suggest you consider deleting this section (n) as municipalities are already going to have a difficult enough time determining when an exempt property is "developed." To foist on it the burden of also determining if the property has subsequently become "undeveloped" is merely adding more situations for conflict between the municipality and certain of its property owners. Once property becomes taxable because it is put to productive use, is there any real reason it should not remain taxable even though the productive use may cease?

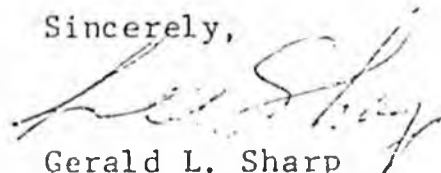
Page 107, lines 24 through 28. I believe this section should be rewritten to eliminate the now superfluous reference to excluding personal property from taxation as this is now included as a specific power for all municipalities in line 22 above. I also believe the reference to extending the redemption period should be deleted as it has nothing to do with exemptions. It also appears that this language contemplates some sort of system of partial redemption of property. If you believe this is an appropriate option for municipalities, I suggest that it should be placed in the section of this chapter which deals with foreclosure and redemption.

Page 109, beginning at line 19. You may want to consider whether to leave greenhouses under this section. Exempting greenhouses does not fit at all with the policy or purpose of the special

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procedure used to determine the value of farm or agricultural land for tax purposes. That purpose is to assist the owner of farm or agricultural land in resisting the pressures of urban growth so that he or she can afford to continue farming rather than being forced to subdivide farm land because of inflated land values. Note that only the farm land receives the special treatment, not improvements to the land such as barns, sheds, irrigation systems, etc. However, with greenhouses, the greenhouse, that is the improvement, also receives the special valuation. The effect of the addition of greenhouses to the existing farm land section results in special tax treatment for commercial greenhouses which raise dieffenbachia and cactus to be sold for use in hotel and office lobbies and to adorn file cabinets and kitchen windows. It has been my understanding that the special tax treatment for farm land was to help the industry which provides us with food to keep the price of this basic need to a minimum. Extending such special treatment to greenhouses which exist for the purpose of raising ornamental plants does not seem to fall within this lofty purpose. I believe the committee should consider incorporating the existing Title 29 language in this section by deleting the changes that were made to incorporate greenhouses.

Sincerely,



Gerald L. Sharp  
City-Borough Attorney

GLS:jr



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ALASKA RURAL ELECTRIC COOPERATIVE  
ASSOCIATION, INC.

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 276-3235

January 27, 1983

Senate Community and Regional  
Affairs Committee  
Alaska State Legislature  
Capitol Building  
Pouch V  
Juneau, Alaska 99811

Gentlemen:

Senate Bill 1 (Municipal Code) contains a serious problem for our association in the utilities section. As introduced, this section would permit municipal regulation of electric and telephone cooperatives which have been exempted from APUC regulation by a vote of their members. This exemption procedure was established by the legislature in 1980, and it has worked satisfactorily since that time.

It is my understanding that Senator Don Gilman has an amendment addressing this problem which was drafted by Lee Sharp and Stuart Hall and later refined by language from Ted Berns. This amendment would resolve our problem, and we urge your approval of this amendment.

Sincerely,

David Hutchens  
Executive Director

Chugach Elec. Ass'n. Sup. Ct. Op. No. 1636  
(File Nos. 2969, 2993), 580 P.2d 687  
(1978); B-C Cable Co. v. City of Juneau,

Sup. Ct. Op. No. 2112 File No. 45871, 613  
P.2d 616 (1980).

**Sec. 42.05.711. Exemptions.** (a) The provisions of AS 42.05.010 -- 42.05.721 do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which he has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of AS 42.05.010 -- 42.05.721, other than the provisions of AS 42.05.221 -- 42.05.281, unless the owner and operator elects to be subject to all provisions of AS 42.05.010 -- 42.05.721.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of AS 42.05.010 -- 42.05.721.

(e) Notwithstanding any other provisions of AS 42.05.010 -- 42.05.721, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under AS 42.05.010 -- 42.05.721 unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of AS 42.05.010 -- 42.05.721, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721 other than AS 42.05.221 -- 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721 other than AS 42.05.221 -- 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25.010 -- 10.25.650 may elect to be exempt from the provisions of AS 42.05.010 -- 42.05.721, other than AS 42.05.221 -- 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 -- 42.05.281,

unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under AS 42.05.010 — 42.05.721 when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982)

**Revisor's notes.** — As enacted by chs. 83 and 136, SLA 1980, present subsections (j) and (i) were designated as subsections (f) and (j), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b). Former subsection (i) of this section was transferred as § 13, ch. 136, SLA 1980 to the 1980 Temporary and Special Acts and Resolutions by the revisor of statutes pursuant to AS 01.05.031(b).

**Effect of amendments.** — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted "under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding

"a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

**Editor's notes.** — Section 13, ch. 136, SLA 1980, as revised by the revisor of statutes, provides: "Cable television systems are exempt from the provisions of AS 42.05 [AS 42.05.010 — 42.05.721], other than the provisions of AS 42.05.221 — 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission."

**Opinions of attorney general.** — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

Municipally owned  
petition with other uti  
to full gamut of regul  
to other utilities,

Sec. 42.05.712.  
which may elect to  
42.05.721 shall po  
scribed in this sect

(b) The votes of  
least 15 percent of  
are required for a  
this section.

(c) Each subscri  
receive notice of a  
service at least 60  
shall contain imp  
bers that an elect  
Alaska Public U  
that a ballot to p  
to each subscrib  
regular bill for s  
member of the c  
regard to wheth  
and that the bal  
within 30 days  
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(e) The re  
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to the subsc  
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section a li

- ① Not allow elected assembly to change the length of ~~the terms~~ terms by ordinance  
(ps. 42 & 43 29.20.150)
- ② Allow longer than 6 months to challenge the legality of the formation of a new municipality  
(ps. 10 29.05.150)
- ③ Establish time limits in By statute statute for LBC actions

— Annexation and Detachment procedures should be equal and regulations should reflect this.

— The first consideration should be ~~at~~ <sup>the</sup> wishes of the local residents

— The burden of proof should be on the municipality

Limit Spending or Taxation by Initiative

Home Rule - Munic. Corp. & Polit Subd.  
all powers not prohibited by law or Charter  
(or unified)

General Law - Only has powers designated by law  
(? *Liberate vs. Bristol Bay Borough - Taxation*)

Class 1, 2, 3 Borough  
Class 1, 2 Cities



Official Business

# Alaska State Legislature

## Senate

### MEMORANDUM

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Senator Rick Halford  
Senate Community & Regional  
Affairs Committee

FROM: McKie Campbell  
Staff Member

SUBJECT: SB 1 Wording

In the course of reviewing SB 1, technical wording problems have been found. Legal Services will correct these problems as a matter of course when they next have the bill. None of these changes will alter the effect or intent of the affected sections, however, they are listed below for your information.

Pg. 8, line 26, after "council" insert:

"of a first class city."

Pg. 29, line 8, after "commission" insert:

"of seven elected members"

Pg. 29, line 14, after "be" insert:

"prepared by the petitioners and"

Pg. 63, line 26:

delete "bill" and replace with "ordinance"

delete "act", and replace with "ordinance"

Pg. 64, line 15:

delete "bill" and replace with "ordinance"

Pg. 106, line 9, after "calculate" insert:

"at the rate of one percent per mill"

Pg. 106, line 10 and 11, delete:

"at the rate of one percent per mill"



Official Business

# Alaska State Legislature

## Senate Committee on Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811


### LETTER OF INTENT TO CSSB 1

February 24, 1983

It is the intent of the Senate Community and Regional Affairs Committee that the assumption of the education power by newly formed or upgraded first class or home rule cities be dependent upon a vote in the existing Regional Education Attendance Area. If the vote both within the city and in the remainder of the REAA was not in favor of the city assuming the education power, it would not.

This Letter of Intent was discussed and unanimously approved by the Senate C & RA Committee. The attached page labelled "Proposed Amendment #10" is what the committee members had in front of them when the Letter of Intent was endorsed. The longer attached amendment, drafted by Legal Services, represents all of the actual changes that need to be made to SB 1 to carry out the Letter of Intent.

Though the committee strongly endorses this concept it was felt the full amendment should be available for review before it was adopted, which is why this method of presentation was followed. The Community and Regional Affairs Committee urges the Finance Committee to incorporate the intent of the attached proposed Amendment #10 into SB 1.

  
\_\_\_\_\_  
Senator Frank R. Ferguson  
Chairman

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSSB 1 (C&RA)

Affairs Committee

Page 2, after line 25 insert:

"(f) A second class city in a regional educational attendance area that reclassifies to first class status after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Page 10, after line 18 insert:

"(d) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Reletter the following subsection accordingly.

Page 34, after line 20 insert:

"(36) AS 29.35.270. (acquisition of education power)"

Renumber the following paragraphs accordingly.

Page 85, line 23:

Delete "A" and insert "Subject to AS 29.35.270, a"

Page 86, after line 5 insert:

"Sec. 29.35.270. ACQUISITION OF EDUCATION POWER. (a) A home rule or first class city formed in a regional educational attendance area after July 1, 1983 remains part of the regional educational attendance area and may not establish a city school district unless the education power is acquired by the city under this section.

(b) Within 90 days after a community in a regional educational attendance area is incorporated as a home rule or first class city or a second class city in a regional educational attendance area reclassifies to first class status or adopts a home rule charter the director of elections shall conduct an election in the regional educational attendance area on the question of whether the city should acquire the education power and form a city school district.

(c) After an election under this section the vote shall be counted separately within the boundaries of the newly formed city and within the area of the regional educational attendance area outside of the city.

(d) If a majority of voters within the newly formed city and a majority of the voters within the area of the regional educational attendance area outside of the newly formed city approve, the city shall assume the education power and form a school district. If a majority of voters in both areas do not approve, the city remains a part of the regional educational attendance area.

(e) This section applies to home rule and general law cities."

Page 186, after line 6 insert:

"\* Sec. 21. AS 14.08.031 is amended by adding a new subsection to read:

(e) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 and a second class city in a regional educational attendance area that reclassifies to first class status or adopts a home rule charter after July 1, 1983 shall be included in the regional educational attendance area boundary unless the city acquires the education power under AS 29.35.270."

Renumber following sections accordingly.

Page 186 after line 29 insert:

"\* Sec. 24. AS 14.12.010(1) is amended to read:

(1) each home rule and first class city in the unorganized borough is a city school district, except as provided under AS 29.-35.270;

\* Sec. 25. AS 14.12.010(3) is amended to read:

(3) the area outside organized boroughs and outside home rule and first class cities is divided into regional educational attendance areas, except that a home rule or first class city may be included in a regional educational attendance area in accordance with AS 29.35.270."

Renumber following sections accordingly.

Page 205, line 20:

Delete "86" and insert "89"

Page 205, line 23:

Delete "86" and insert "89"

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1983

SUBJECT: Authority of municipalities to exercise eminent domain outside their boundaries (Work Order No. 13-0792)

TO: Senate Community and Regional Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

TBC

You have asked to what extent a municipality may exercise the power of eminent domain outside its corporate boundaries. The general rule is that a municipality cannot condemn lands that lie within the state but outside of the municipal boundaries unless the power has been delegated by the legislature. The legislature may delegate this power expressly and, in some cases, the power has been implied to exist in the absence of express delegation. However, unless there is an express delegation to a municipality of the power to exercise eminent domain outside municipal boundaries, the issue may not be clear. The better rule is that if a municipality has the power to construct a facility outside its boundaries and if the municipality could exercise the power of eminent domain in order to construct a similar facility within its boundaries, then the municipality impliedly has the power to exercise eminent domain outside its boundaries in order to construct the facility. McQuillan, Municipal Corporations, Vol. 11, sec. 32.66.

AS 29.73.020 provides that a municipality

. . . may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality in accordance with AS 09.55.250 - 09.55.460. (Emphasis added)

Under AS 29.48.037 a municipality is authorized to provide various facilities and services outside its boundaries. The two sections taken together appear to be an express delegation of the power of eminent domain which may be exercised outside municipal boundaries to provide certain services and facilities. In any case, since a municipality is able to exercise the power of eminent domain within its boundaries to provide similar services and facilities, it seems clear that the municipality may, by implication, exercise the power of eminent domain outside its boundaries to provide services and facilities that it is authorized by law to provide outside its boundaries.

This conclusion is further strengthened by the fact that under AS 09.55.260 it is not just private property that is subject to be taken through eminent domain. Paragraph (2) provides that property of the state or a municipal division that is not already appropriated to a public use may be taken through eminent domain. Even property that is appropriated to a public use may be taken for a more necessary public use under paragraph (3). A municipality providing an authorized service or facility outside its boundaries could exercise eminent domain to take land belonging to the state or another municipality if that land is necessary in order to carry out the authorized project.

It should be noted municipalities are not the only entities that have been granted the power of eminent domain. The power of eminent domain may be exercised by the Alaska State Housing Authority (AS 18.55.100(a)(6)), regional Native housing authorities (AS 18.55.996(b)), the Alaska Power Authority (AS 44.83.080(15)), regional electrical authorities (AS 18.57.040(15)), electric or telephone cooperatives (AS 10.25.010(8)), and by any utility, whether public or private (AS 42.05.631).

Under SB 1, municipalities continue to be authorized to provide certain services and facilities outside their boundaries and the list of authorized functions has been enlarged under sec. 29.35.020. The limitation upon the exercise of eminent domain by second class cities has been removed, but otherwise the authority of municipalities to exercise eminent domain remains essentially the same under sec. 29.35.030. Under both SB 1 and existing law, a municipality may exercise eminent domain in order to provide a service or facility outside its boundaries if it has been

Senate Community and Regional Affairs Committee  
Page 3  
February 14, 1983

authorized by law to provide that particular service or  
facility outside its boundaries.

TBC:ljb



**ALASKA RURAL ELECTRIC COOPERATIVE  
ASSOCIATION, INC.**

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 276-3235

January 27, 1983

Senate Community and Regional  
Affairs Committee  
Alaska State Legislature  
Capitol Building  
Pouch V  
Juneau, Alaska 99811

Gentlemen:

Senate Bill 1 (Municipal Code) contains a serious problem for our association in the utilities section. As introduced, this section would permit municipal regulation of electric and telephone cooperatives which have been exempted from APUC regulation by a vote of their members. This exemption procedure was established by the legislature in 1980, and it has worked satisfactorily since that time.

It is my understanding that Senator Don Gilman has an amendment addressing this problem which was drafted by Lee Sharp and Stuart Hall and later refined by language from Ted Berns. This amendment would resolve our problem, and we urge your approval of this amendment.

Sincerely,

David Hutchens  
Executive Director

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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

Position Paper

Re: SB 1

Sponsor: Senator Gilman

Program Effects

Title 29 of the Alaska Statute is the Municipal Code by which the cities and boroughs of this state operate. It has been in place for several years and has been amended several times during this period. Consequently it has become antiquated and something of a hodge podge. This bill would update, reorganize and streamline the Title.

Comments

SB 1 does not deal with major policy issues; it is strictly reorganization and updating. The Bill attempts to clear up many of the current ambiguities and contradictions that have been created through the several years of amendments.

The Bill has received large amounts of work by the Community and Regional Affairs Committees of both Houses of the Legislature, the Alaska Municipal League, many of the League's affiliate organizations, and the Department of Community and Regional Affairs.

It has had many public hearings, resulting in many changes and improvements during that process. It is not everything to everybody and does not attempt to solve all municipal problems. What it does do is clean up the Municipal Code both in terms of organization and in terms of content. It is one of the Department's key priorities for passage during this Legislative session.

Page 1:

- Sec. 29.03.030 - Platting Authority
- Sec. 29.04.010 - Home Rule
- Sec. 29.04.020 - General Law
- Sec. 29.04.030 - Classes of General Law

Page 2:

- Sec. 29.04.040 - Reclassification of Second Class Cities
- Sec. 29.04.050 - Reclassification of Second Class Boroughs

Page 3:

- Sec. 29.04.060 - Reclassification of Third Class Boroughs

Page 4:

- Sec. 29.05.010 - Incorporation of a City
- Sec. 29.05.020 - Limitations on Incorporation of a City
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Page 5:

- Sec. 29.05.060 - Petition

Page 6:

- Sec. 29.05.070 - Review
- Sec. 29.05.080 - Investigation

Page 7:

- Sec. 29.05.090 - Hearing
- Sec. 29.05.100 - Decision
- Sec. 29.05.110 - Incorporation Election

Page 8:

- Sec. 29.05.120 - Election of Initial Officers

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- Sec. 29.05.130 - Integration of Special Districts & Service Areas

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- Sec. 29.05.140 - Transition
- Sec. 29.05.150 - Challenge of Legality
- Sec. 29.05.180 - Organization Grants to Cities

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- Sec. 29.05.190 - Organization Grants to Boroughs

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- Sec. 29.05.200 - Organization Grant Fund
- Sec. 29.05.210 - Transitional Assistance to Boroughs

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- Sec. 29.06.010 - Change of Municipal Name

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THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 1  
 Title "An Act Relating To Municipal Government"  
 Requested by Senator Gilman Date 2/1/83

II. FISCAL DETAIL

Agency Affected Dept. of Community & Regional Affairs  
 Program Category Affected Development  
 BRU, Program, Or Subprogram(s) Affected Local Government Assistance  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>0</b>	<b>100.0</b>	<b>150.0</b>	<b>625.0</b>		

FUNDING (Thousands of Dollars)

	0	100.0	150.0	625.0		
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE 1/27/83 PREPARED BY Terry Farley

AGENCY Community & Regional Affairs

Original: Legislative Finance PHONE 465-4730

cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: David Gentry

*[Handwritten signature: D. Gentry]*

FISCAL NOTE  
"An Act Relating to Municipal Government"

Article 3 of the Bill appears to be the only portion that has fiscal impact on this Division. That Article "TRANSITIONAL ASSISTANCE" provides for organizational grants to newly formed and newly reclassified cities. These grants are \$50,000 the first year and \$25,000 the second year.

Additionally, the bill provides for organization grants to newly formed Boroughs in the following amounts:

\$300,000 for the first fiscal year  
\$200,000 for the second fiscal year  
\$100,000 for the third fiscal year

Finally, it provides for the department to establish an initial sales tax structure and an initial property tax structure.

Assumptions: In estimating the fiscal impact of the bill the following assumptions were made.

1. There would be two incorporations or reclassifications each year. This would produce an FY 84 cost of \$100,000.
2. There will be one Borough Incorporation in 1986. This incorporation would necessitate expenditure of the 3 step organization grant in 1986, 1987, and 1988. Based on this assumption it is also estimated that contractual costs for setting up the two tax systems would be \$350,000 in contractual costs spread over a 2 year period.

Chugach Elec. Ass'n, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 550 P.2d 687 (1978); B-C Cable Co. v. City of Juneau, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

**Sec. 42.05.711. Exemptions.** (a) The provisions of AS 42.05.010 — 42.05.721 do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which he has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of AS 42.05.010 — 42.05.721, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of AS 42.05.010 — 42.05.721.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of AS 42.05.010 — 42.05.721.

(e) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under AS 42.05.010 — 42.05.721 unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25.010 — 10.25.650 may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281,

unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under AS 42.05.010 — 42.05.721 when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982)

**Revisor's notes.** — As enacted by chs. 83 and 136, SLA 1980, present subsections (j) and (i) were designated as subsections (f) and (j), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b). Former subsection (i) of this section was transferred as § 13, ch. 136, SLA 1980 to the 1980 Temporary and Special Acts and Resolutions by the revisor of statutes pursuant to AS 01.05.031(b).

**Effect of amendments.** — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted "under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding

"a utility," and inserted "annual" preceding "gross revenue" in subsection (i).

**Editor's notes.** — Section 13, ch. 136, SLA 1980, as revised by the revisor of statutes, provides: "Cable television systems are exempt from the provisions of AS 42.05 [AS 42.05.010 — 42.05.721], other than the provisions of AS 42.05.221 — 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission."

**Opinions of attorney general.** — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section once the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

Municipally owned u  
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Sec. 42.05.712. I  
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are required for a u  
this section.

(c) Each subscri  
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Assigning SB 98 to Halford

Reassigning SB 89 to Halford

SB 90 to Halford



# THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 8, 1983

Senate Community and  
Regional Affairs Committee  
Juneau, Alaska

File: Legislature - 1983 - Senate Bill 1

Gentlemen:

Please consider the following recommendations in your deliberations on Senate Bill 1.

On page 42, line 22, insert the phrase "charter or" immediately before the word "ordinance." In at least one community, and possibly others, this matter is dealt with by a charter provision rather than by ordinance.

On page 56, beginning at line 25, I suggest that lines 25 through 29 be deleted along with the reference to this section under the home rule laundry list at line 17 on page 23. Alaska Statute 36.25.025 applies to all municipalities whether home rule or general law. If a home rule municipality wishes to exempt its contractors from those provisions it must do so in accordance with the procedures set out in AS 36.25.025. Those procedures clearly specify the use of an ordinance to establish the exemption.

Page 76, line 17. Although this is the language used in the present law, I think it is inartful. Municipalities do not exercise the right of eminent domain merely to determine fair market value. Eminent domain is used to acquire property. The determination of fair market value is merely one of the incidences of acquiring property through the use of eminent domain. I suggest the phrase "determine fair market value" which starts in line 16 be deleted and replaced with the phrase "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Page 78, beginning at line 25 and extending through line 8 on page 80. I think this entire section is unneeded. The authority for a municipality to enter into a joint agreement for the exercise of one of its powers or functions with other municipalities, the state and the federal government is found in Section 13 of Article 10 of the Alaska Constitution. The subject section in the Bill just provides unnecessary details. It is my recollection that this section was included in the revision because it was adopted either while the Title 29 Revision Committee was revising Title 29 or shortly after the committee produced its revision. It was incorporated in the revision without substantive review. We do not have provisions in the code detailing the procedures for entering into joint

Senate Community and  
Regional Affairs  
February 8, 1983  
Page Two

agreements with the Forest Service for fire protection of rural properties of mutual concern, or for joint state, federal, and local drug enforcement operations or for a host of other municipal functions which are exercised jointly or in cooperation with state or federal agencies or other municipalities. I strongly suggest that this section be eliminated as it is not only superfluous, but its existence may lead courts to two unfortunate conclusions; first, that the only way municipalities may engage in a cooperative or joint emergency service communication center is as provided in the subject section; and second that inasmuch as the legislature went to great pains to detail the procedures and structures for joint operation of emergency communication centers, other similar joint operations must have specific and detailed legislative authorization. It was for these types of reasons that the technical committee for the Title 29 revision recommended striking or generalizing such detailed procedures found in the present Title 29. If there is some feeling that striking this section would jeopardize the authority of municipalities to enter into such arrangements, I suggest the section be struck and replaced with a new section under the general powers portion of the Bill which would authorize a municipality to enter into an agreement or association, including membership in a corporation, with any other municipality, the state, or federal agencies, for the purpose of exercising any power or function of the municipality.

Page 96, beginning at line 5. Subsection (c) of this section makes subsections (a) and (b) applicable to all home rule municipalities. Actually, there appears to be little need to have this apply to any home rule municipality; however, because subsection (a) deals with the different disposition of a vacated public square depending on whether the square is within a city or outside a city but within the borough, it may be appropriate to make subsection (a) applicable only to home rule boroughs and general law municipalities. In addition, the last sentence of subsection (a) which begins in line 17 could lead to some very awkward situations. If, in the original plat, a lot is dedicated as a holding area for storm waters, or as a park or for some other non-street use and is later vacated because the lot is no longer needed for that purpose it may be very difficult to determine who is the "rightful" owner; and if this "rightful" owner is someone other than the abutting property owners, it may be impossible to locate the owner. I suggest deletion of the sentence which begins on line 17, and in line 14, just before the word "public" the insertion of the phrase "lot or".

Page 105, beginning at line 7. I don't think that the definition of "developed" clarifies anything. For example, when a native corporation subdivides some of its property and puts in roads and

Senate Community and  
Regional Affairs Committee  
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utilities, that would seem to be "developed" under the common use of that word; however, this definition casts serious doubts as to whether such land would be developed for tax purposes. Lines 19 and 20 establish a situation which is contrary to the subdivision laws and will create problems if there is a tax foreclosure on non-exempt land. Unless I read this part of the section incorrectly, its intent is to limit the loss of the exemption to only that portion of the parcel which is developed. That is, if the corporation owns a U.S. Survey consisting of 25 acres and it develops three acres of that parcel with an industrial park, only the three acres would be taxable. The problem this approach creates is that if the municipality forecloses on the property it must foreclose on the parcel of record; that is, the 25 acre parcel and not some lesser parcel. If it were to foreclose on a parcel other than a parcel of record, the foreclosure proceeding would have the effect of subdividing the property without going through the platting procedure. Therefore, I suggest that the language relating to the loss of the exemption to the smallest practicable tract be deleted. The corporation may protect its remaining property by subdividing the parcel into two lots; one which will be developed and will lose its exemption, and one which will not be developed. This will protect the undeveloped property.

Page 106, beginning at line 1. I suggest you consider deleting this section (n) as municipalities are already going to have a difficult enough time determining when an exempt property is "developed." To foist on it the burden of also determining if the property has subsequently become "undeveloped" is merely adding more situations for conflict between the municipality and certain of its property owners. Once property becomes taxable because it is put to productive use, is there any real reason it should not remain taxable even though the productive use may cease?

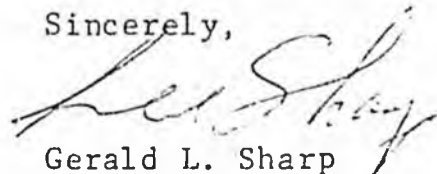
Page 107, lines 24 through 28. I believe this section should be rewritten to eliminate the now superfluous reference to excluding personal property from taxation as this is now included as a specific power for all municipalities in line 22 above. I also believe the reference to extending the redemption period should be deleted as it has nothing to do with exemptions. It also appears that this language contemplates some sort of system of partial redemption of property. If you believe this is an appropriate option for municipalities, I suggest that it should be placed in the section of this chapter which deals with foreclosure and redemption.

Page 109, beginning at line 19. You may want to consider whether to leave greenhouses under this section. Exempting greenhouses does not fit at all with the policy or purpose of the special

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procedure used to determine the value of farm or agricultural land for tax purposes. That purpose is to assist the owner of farm or agricultural land in resisting the pressures of urban growth so that he or she can afford to continue farming rather than being forced to subdivide farm land because of inflated land values. Note that only the farm land receives the special treatment, not improvements to the land such as barns, sheds, irrigation systems, etc. However, with greenhouses, the greenhouse, that is the improvement, also receives the special valuation. The effect of the addition of greenhouses to the existing farm land section results in special tax treatment for commercial greenhouses which raise dieffenbachia and cactus to be sold for use in hotel and office lobbies and to adorn file cabinets and kitchen windows. It has been my understanding that the special tax treatment for farm land was to help the industry which provides us with food to keep the price of this basic need to a minimum. Extending such special treatment to greenhouses which exist for the purpose of raising ornamental plants does not seem to fall within this lofty purpose. I believe the committee should consider incorporating the existing Title 29 language in this section by deleting the changes that were made to incorporate greenhouses.

Sincerely,



Gerald L. Sharp  
City-Borough Attorney

GLS:jr