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Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouet V

Juneau, Alaska 99811

March 4, 1985

To: Senator Coghill
Senator Vic Fischer
Senator Ferguson
Senator Sturgulewski

From: Senator Edna DeVries, Chair *Edna*
Community

Subj: Title 29 Revisions
SB 142

Attached is material that will assist us in our consideration of SB 142. Specifically included are:

- *1) Fact Sheet prepared by Ak Municipal League
- *2) "Brief History of Title 29 Rewrite (HB 72), ltr dtd 1/25/85 from Commissioner Emil Notti to HC&RA Chairman, Rep. Peter Goll
- 3) Bill introduction cover letter from the Governor with attached fiscal note
- *4) Position Paper on the bill by Dept of C&RA (2/15/85)
- 5) Memo from Tamara Cook stating that SB 142 and HB 72 are identical bills (2/21/85)
- 6) Comparison of HB 72 and last Session's CSHB 172(fin) (2/8/85)
- 7) Sectional analysis of the bill (2/15/85)
- 8) Copy of the bill
- *9) Copy of amendments passed by HC&RA; which passed the bill out of committee today

It is my understanding from Representative Goll that the next committee of referral in the House (Judiciary) will waive HB 72, permitting it to go directly to Finance.

I would urge you to look over as a minimum those items noted by an asterisk prior to our meeting; if at all possible.

Alaska State Legislature

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Pouch V

Juneau, Alaska 99811



Official Business

C&RA Meeting - 5 March

Teleconference on SB 137 "An Act relating to
Senior Citizen Housing -- 3:30 - 4:15p

Overview -- SB 142 "An act relating to municipal
government" -- 4:15 - 5:00p

Edna,

You have received requests to expedite passage of SB 142, without any amendments, from the following local governments:

- 1) City of Whittier
- 2) City of Alakanuk
- 3) City of Ketchikan and Ketchikan Gateway Borough
- 4) City of McGrath
- 5) City and Borough of Sitka
- 6) City of Sand Point
- 7) City of Soldotna
- 8) City of Haines
- 9) Resolution from City Council, Ketchikan
- 10) Matanuska Susitna Borough
- 11) Haines Borough
- 12) City of Houston
- 13) City of Craig
- 14) City of Kodiak
- 15) Municipality of Anchorage

Resolutions urging passage have also been passed by: Alaska Municipal League, Yukon-Kuskokwim Delta Mayors Conference, North/Northwest Mayors Conference.

March 6 at 3:00p in room 209 to consider with House C&RA--HB 198, Muni Assistance to Metlakatla

March 7 C&RA will be considering SB 142 -- Title 29 revisions and SB 26 -- notification to Community Councils of certain state actions



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Juneau, Alaska 99811

COMMITTEE MEETING 3/14/85

Will take up SB 159 by Senator Paul Fischer

The bill increases the percentage of municipal school construction debt retired by the state from 50 % to 75 %.

Will hear again SB 69

An Administration bill relating to licensing and regulation of the sale and distribution of alcoholic beverages

Committee heard this bill the first time on Feb 28

The committee had no recommended changes

however, Senator Coghill had a problem with

two sections....the bill was held for

he has two amendments to offer

The CS for 142 has been returned from Legal....attached is a letter of explanation from Tam Cook, a memo from the Revisor of Statutes affirming that the purpose clause will be set out in an editor's note following the title analysis; and a copy of the letter of intent that will accompany the bill.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 14, 1985

SUBJECT: Municipal Code Revision
(CSSB 142 (C&RA))

TO: Senator Edna DeVries
Chair, Community & Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Checked

Here is the committee substitute that you requested. It incorporates all changes adopted by the House Community and Regional Affairs Committee in the house version of the municipal code revision with the exception of the change to Section 29.20.630. This committee substitute includes the purpose clause adopted by your committee and changes the population requirement for incorporation of a first class or home rule city from 600 to 400 residents. In addition, I have made two technical changes. Section 29.45.030(1) contains a citation to AS 19.70.081 which I have corrected to read AS 18.70.081. This cross-reference appears in existing law, and there is, in fact, no AS 19.70.081. Some changes were made in Section 29.45.080 in earlier versions of the municipal code revision bill to clarify that language. Mary Nordale, Commissioner of the Department of Revenue, has indicated to me that these changes create practical problems for the department in implementing its responsibilities under other provisions of law. Since no substantive change has ever been intended to be made to this section and since the attempt at clarifying the language has apparently failed, I have, as a drafting matter and with the permission of Yvonne Alford, conformed this section to the language that appears in existing law.

*was in
Amend #3
from HC&RA*

Please contact me if I can be of further assistance.

TBC:csh
c3/049

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 13, 1985

SUBJECT: Purpose clause for SB 142

TO: Senator Edna DeVries
Chair, Senate Community and Regional Affairs

FROM: David R. Dierdorff 
Revisor of Statutes

I have reviewed the purpose clause proposed as an amendment to SB 142, the municipal code revision.

Should the legislature enact this bill, or another version of it, with the purpose clause included, you can be assured that the clause would be set out in an editor's note following the title analysis for AS 29 (page 1 of the pamphlet). It is my understanding that your committee wants a note to remain in AS for at least 10 years. My instructions to the Michie Company would include a request that the note be considered "permanent" and that it not be deleted until at least 1995, and thereafter only at the express direction of the revisor.

DRD:csh
c3/041



Official Business

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

March 14, 1985

Letter of Intent to Accompany Committee Substitute for
Senate Bill 142

It is not the intent of the Legislature through the passage of CSSB 142 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25-540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Senator Edna DeVries, Chairman

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB 142

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill revising the municipal code (AS 29).

An identical bill, HB 72, was introduced in the House on January 16, 1985. At the request of the Alaska Municipal League, I am introducing this bill in the Senate today so that both houses of the Legislature can work on it concurrently.

The bill was modeled on the committee substitute prepared last session by the House Finance Committee as CSHB 172(Fin). There is one significant difference between former CSHB 172(Fin) and this bill with regard to home rule municipalities. Rather than allowing second class cities to move to home rule status in a single step, as sec. 5 of HB 172 and CSHB 172(Fin) had provided, this bill retains the requirement that second class cities become first class cities before voting for home rule, as AS 29.13.010 -- 29.13.080 currently provide.

This bill makes many uncontroversial improvements to our municipal code and I urge its prompt consideration and passage.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 142
 Title: An Act relating to
Municipal Government
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: _____
Community Development
 BRU, Program or Subprogram(s) Affected: _____
 BRU: Community Assistance Grants
 Component: Organizational Grants

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		100.0	450.0	350.0		
800 MISCELLANEOUS						
TOTAL OPERATING		100.0	450.0	350.0		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		100.0	450.0	350.0		
FEDERAL FUNDS						
OTHER						
TOTAL		100.0	450.0	350.0		

POSITIONS:

FULL-TIME		-0-	-0-	-0-		
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

(See Attached Page)

Prepared By: Doug Griffin Deputy Director
 Division: Municipal & Regional Assistance

Phone: 465-4750

Date: 1-10-85

Approved by Commissioner: Amie Nott
 Agency: Community & Regional Affairs

Date: 1-10-85

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 - 14th LEGISLATURE, 1ST SESSION
FISCAL NOTE

Bill/Resolution No.: _____

Title: An Act relating to municipal government

ANALYSIS:

Assumptions: Incorporation under Sec. 29.05.180--.190 of the proposed legislation provides for increased transitional assistance to newly incorporated cities and boroughs. For purposes of this fiscal note it is assumed that incorporations will occur as follows:

- FY 86: 2 cities incorporate
- FY 87: 2 cities and one borough incorporate
- FY 88: 2 cities incorporate

Program Summary: The only portion of this 206 page bill which will create fiscal impact is Sec. 29.05.180--29.05.190 which provides additional transitional assistance through increased organizational grants. These increased organizational grants more realistically provide the level of assistance required to establish new cities and boroughs. The Department is also required to provide additional assistance to newly formed cities and boroughs in setting up a sales tax collection system and tax rolls for property taxation. It is difficult to gauge whether this type of assistance will in fact be requested. If it is requested, additional work will be required of the State Assessor and technical assistance sections of the Division of Municipal and Regional Assistance. Given this uncertainty, possible costs for this type of technical assistance are not reflected in the fiscal note.

1. Positions: No new positions
2. Other Expenditures: N/A
3. Funding: General funds
4. Section Cost Analysis: All costs are contained in Section 3, Article 3 of this bill.

Computations: The costs for FY 86-FY 88 are computed as follows based on the assumptions previously stated:

Grants in FY 86.....	100.0
(2 cities incorporate @ \$50,000 per -- first year grant)	
Grants in FY 87.....	450.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$300,000 per -- first year grant)	
(2 cities @ \$25,000 per -- second year grant)	
Grants in FY 88.....	350.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$200,000 -- second year grant)	
(2 cities @ \$25,000 -- second year grant)	

Economic Impact: Other than providing newly incorporated municipalities with greater financial incentives to incorporate and a more realistic level of transitional assistance, the economic impact on the state and local governments will be limited.

Impact on Local Governments: This bill is strongly supported by the Alaska Municipal League and most municipalities of the State. Impacts will generally be positive, particularly for newly incorporated municipalities.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

February 15, 1985

POSITION PAPER

RE: Senate Bill 142

SPONSOR: Rules Committee by request of the Governor

Program Effects of Bill

Senate Bill 142 is a comprehensive revision of the municipal code. It will establish better organization of Title 29 and greater flexibility for local governments than under existing law. It will result in greater efficiency in the general administration of department programs. Additionally, it will revise statutory language in the State Revenue Sharing Program which the Attorney General has found to be unconstitutional.

Comments

The Department has worked extensively over the past six years to achieve passage of this legislation. Currently Title 29 is a confused and sometimes controversial patchwork of state law dealing with local government. This bill is designed to restructure the organization of Title 29 to simplify administration of the law and to make it more understandable and usable to those who deal with it. Senate Bill 142 organizes most sections by class of municipality, making it easier to refer to specific sections and determine which classes of municipality are affected. Terminology is standardized through consistent use throughout Title 29 and more precise definition than in existing law. Powers and responsibilities of municipalities are thus clarified.

Aside from effecting a better organization of the contents of Title 29 and improved terminology, SB 142 also proposes some important improvements to the current body of municipal law.

Certain powers and responsibilities are clarified in SB 142, particularly in the areas of extraterritoriality and land disposal. Other portions of the bill create new flexibility for local communities, particularly in the areas of reclassification, home rule and zoning. Some changes are of great benefit to the Department in its administration of programs, such as revenue sharing for unincorporated communities. These are all worthwhile changes that argue in favor of the bill.

Extraterritorial Powers

- Extraterritorial power for all municipalities has been expanded to allow for the operation of additional facilities outside of municipal boundaries, including solid and septic waste facilities, wharfs, 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. (Under existing statutes, a municipality could regulate a facility outside its boundaries, but no right to regulate was provided for the municipality within which the facility was located.)

Eminent Domain

- The exercise of eminent domain and declaration of taking is extended to second class cities. Under current law, second class cities must first receive the approval of the Department of Community and Regional Affairs (DCRA) before they can exercise this power in a specific instance.

Land Disposal

- Municipal land disposal provisions have been simplified, requiring only that the local governing body establish a set of formal procedures by ordinance.

Planning and Zoning

- Zoning laws have been broadened to allow for "land use regulations," thus providing a wider range of options for local governments to implement their local plans and programs.

All of these modifications must be viewed as important, positive and long sought after improvements to Title 29.

Revenue Sharing/Municipal Assistance

- This bill transfers the municipal assistance program to DCRA to provide for a coordinated administration.
- Cleans up an existing provision of Title 29 which makes revenue sharing funds available to "Alaska Native Village" governments, which an Attorney General's opinion ruled was unconstitutional. Senate Bill 142 would resolve this problem by making revenue sharing available to all unincorporated communities in the unorganized borough.

Incorporation and Transition Grants

- Raises the organization grant paid by the State to newly formed cities from \$10 per voter to a \$50,000 in the first year and \$25,000 in the second year. Boroughs would be eligible to receive a grant of \$300,000 in the first year, \$200,000 in the second, and \$100,000 in the third year following incorporation. Boroughs now receive \$25,000 on incorporation or \$10 per voter, whichever is higher. The increased organizational grants will make it much easier for communities or regions of the state to organize as municipalities.


Municipal Property Taxation

In the sections which deal with local property taxation, the bill clarifies several points which are confusing under current law. In addition, it allows municipalities more flexibility in the area of assessment policy.

In the past, property taxes were required to be levied equally against both real and personal property. Senate Bill 142 allows municipalities to exempt property in either category if it wishes to do so, an option which has been badly needed in some communities.

In addition, the Office of the State Assessor responds to numerous questions each year which are caused by the inferior organization of assessment and taxation laws under the current Title 29. The improved arrangement of these laws in SB 142 will be helpful in reducing the number of inquiries that the office currently addresses.

The changes in the bill are necessary to achieve these purposes and are supported by the Department. They are also supported by the Alaska Municipal League and most local governments.


Emil Notti, Commissioner

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1985

SUBJECT: Municipal Code Revision (SB 142)

TO: Senator Edna DeVries
Chairman, Community and Regional Affairs

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked me whether the versions of the municipal code revision bill, SB 142 and HB 72, are identical. According to the Governor's transmittal letter, SB 142 is identical to the house bill that was introduced first. (Senate Journal, February 8, 1985, page 250) I have compared both bills and found no difference between them.

If I may be of further assistance, please contact me.

TBC: csh
c3/015

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1173

January 25, 1985

The Honorable Peter Goll, Chairman
House Community and Regional Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

RE: BRIEF HISTORY OF TITLE 29 REWRITE (HB 72)

Dear Representative Goll:

To place HB 72 into perspective the Department has prepared a brief history of the issue of the Title 29 revision bill.

CS for Senate concurrent Resolution No. 66 offered during the Eleventh Legislature noted that the municipal code was in need of comprehensive revision and appointed the Alaska Legislative Council to prepare a revision of Title 29 of the Alaska Statutes. This involved having the legal services division of the Legislative Affairs Agency work with a policy advisory group to draft a total revision of the Municipal Code. The policy advisory group in turn appointed a technical advisory group consisting of municipal attorneys, clerks, and other technically oriented staff.

These two groups worked diligently during the latter half of 1980 to hammer out an acceptable comprehensive revision of Title 29. For the most part, the new bill was drafted to insure greater uniformity of terminology, eliminate inconsistencies in the present statute, and, in general, reorder the statute to a more comprehensible format.

A few policy revisions were introduced, but they were not the main focus of the bill. In short, the general intent of the new Title 29 was to create a more understandable, easier to use document which clearly enunciated State policy regarding local governments. The document tended, as a whole, to give local governments greater flexibility and freedom to address local concerns.

The Honorable Peter Goll
January 25, 1985
Page 2

The new initiative was introduced as SB 180 during the Twelfth Legislature which convened in January 1981. The legislation was approved by this Legislature, but not before some controversial amendments regarding population, forest land taxation, and public utilities were attached on the floor of the House. These amendments resulted in a veto of the bill by then Governor Hammond. The attachment of these controversial amendments also prompted an unwritten policy among those interested in passage of this bill to keep future versions of the legislation free of controversial amendments which might stop or delay its passage.

The Title 29 bill was reintroduced in Thirteenth Legislature in generally the same form as the pre-amended SB 180. The bill that was introduced in 1982 by Governor Sheffield was numbered HB 172. The bill received extensive review by the House Community and Regional Affairs Committee and its companion in the Senate (SB 1) also received some attention by the Senate Community and Regional Affairs committee. HB 172 passed the House, but languished in the Senate Judiciary Committee until adjournment last year.

This brings us to the third legislature to address this comprehensive bill. Governor Sheffield has again identified a new Title 29 as a priority and has introduced it as HB 72. We hope to work with your committee and all supporters of a revised municipal code to assure speedy passage this year.

I hope this background information proves useful to you deliberations.

Sincerely,



Emil Notti
Commissioner

TITLE 29 FACT SHEET

SUMMARY OF HB 72/SB 142 - TITLE 29 (MUNICIPAL CODE)

HB 72 and SB 142 are comprehensive bills that reorganize and clarify Title 29 (Municipal Code), but do not substantially change that part of the state statutes that direct the operation of local government in Alaska.

History: The current Title 29, last revised in 1972, is a hodgepodge of 13 years worth of amendments. It is very difficult for the average citizen to read and understand.

Recognizing the problem, the Legislature adopted SCR 66 in 1980, directing the rewrite of Title 29. A broadly representative policy committee, with the assistance of a technical committee, prepared a revised code after an exhaustive series of meetings, hearings, and public presentations.

HB 170 and SB 180 were introduced in 1981. More hearings were held during the 1981 legislative session, during the interim, and continuing through the 1982 session. SB 180 passed the legislature, but because of controversial floor amendments, Governor Hammond vetoed the bill.

In 1983, SB 1 was introduced by Senators Sturgulewski and Gilman; HB 172, by Governor Sheffield. Both bills are basically the same as the bill that had passed the previous year minus the controversial amendments. More committee work was done in both the House and Senate on the 204 page bill. HB 172 passed the House in the Second Session of the 13th Legislature but it did not reach the Senate.

Governor Sheffield has introduced HB 72 and SB 142 in the 14th Legislature. These identical bills are the same as HB 172, the bill that passed the House last year, except for removing the ability of a second class city to adopt a home rule charter.

Changes: For the most part, these bills reorganize and reword Title 29 for clarity and flexibility. Policy changes of any substance are very few. The main changes are:

Third Class Boroughs: The existing third class borough, Haines Borough, continues in existence, but there is no provision for incorporating new third class boroughs in the future.

Municipal Powers: A general grant of municipal powers is given to municipalities, instead of a long list of enumerated powers. The difference is more semantic than actual, since the list includes almost every conceivable municipal power. There is no change in the manner in which boroughs acquire powers.

Organizational Grants/Feasibility Studies: The organizational grants are increased and expanded, depending on the category of local government. Studies for the feasibility of local government are authorized.

Incorporation Requirements: The minimum number of people required for incorporation as either a first class or home rule city is increased from 400 to 600.

Ordinance Violation: Penalties for ordinance violations are increased from a maximum \$500 and 30-days to class B misdemeanor penalties, which are a maximum of \$1000 and 90-days.

Extraterritorial Jurisdiction: Solid and septic waste disposal, utility services, wharves, harbors, and other marine services are added to the list of powers that may be exercised outside the boundaries of the municipality, if the municipality has the authority to exercise the power inside its boundaries.

Economic Development: Allow economic development as a non-area-wide power for second class boroughs, without requiring a vote of the people to exercise it.

Franchise: Requires a vote on franchises of more than 5 years; current law requires a vote on all franchises.

Eminent Domain: Removes the requirement that second class cities get permission from the Department of Community and Regional Affairs and the voters before exercising the power of eminent domain.

Planning, Platting, and Land Use: Updates the language, changing "zoning" to "land use".

Run-Off Elections: Allows run-off election procedures and requirements to be changed by ordinance.

Personal Property: Allows exemption of personal property from taxation.

Taxation of Boats: Removes the \$5 and \$15 property tax limit on boats if assessed on the basis of net tonnage.

Penalties and Interest: Increases the maximum penalty on delinquent property and sales tax from 10% to 20% and interest from 8% to 15%.

Revenue Bonds: Authorizes revenue bonds to be payable solely from the revenue and property of the project.

Municipal Assistance Fund: Moves the administration of the Municipal Assistance Fund from the Department of Revenue to the Department of Community & Regional Affairs.

Municipal Property Disposal: Requires municipalities to adopt formal procedures by ordinance; current law sets out procedures including requiring an election on the disposal of any property valued at more than \$25,000.

SB 142

3/5/85

Coghill

pg 1 - line 36

should make that discretionary

move pg 1 line 26 strike "shall"
and insert "may"

leave fiscal note as is

Sturgu move bill as amended
no objections

Sturgulowski -

Smith - C & RA supports this bill

Sturgulowski - Planning - has it changed - -
this is basic - we need to understand
this issue completely

Scott Burgess -

HB 172 - ~~new bill~~ was cleansed of
amendments that caused the bill to be vetoed

Attorney who is already scheduled
wrote bill for this
I will stay tonite and
do packets on HC&RA
amondiments - they
will be delivered
to Court members
tomorrow
mornung

Doug Griffin

Hamm cited 3 amendments

- 1) population - oilfield \rightarrow differently set up double \rightarrow
- 2) exempted forest lands from muni tax
- 3) one that dealt with public utilities

Scott - SB 142 is what passed - cleansed of controversial amendments

Have discussed land use aspect w/ Mr Walker concerned w/ powers of boros - cities to regulate land use

This bill is not just a re-write -

Coghill - moved to adjourn

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 8, 1985

SUBJECT: Comparison of HB 72 and last session's
CSHB 172(Fin) revision of the municipal code

TO: Representative Peter Goll

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked me to compare HB 72 introduced this session with CSHB 172(Fin) from the thirteenth legislative session. According to the Governor's transmittal letter, this is the version of the municipal code revision bill upon which HB 72 is based.

The most significant difference between the two bills is in chapter 10 dealing with home rule municipalities. Under HB 72, as in existing law, only a first class borough, a second class borough, or a first class city may adopt a home rule charter. This provision had been liberalized significantly in CSHB 172(Fin). It allowed a third class borough to adopt a home rule charter as well as a second class city with a population of at least 600. In addition, it permitted an unincorporated area to adopt a charter and incorporate as a home rule city or borough without organizing into a general law municipality first. The difference between HB 72 and CSHB 172(Fin) is accomplished through changes made in each section of chapter 10, with the language in HB 10 generally mirroring existing law. However, the list of requirements for an incorporation petition had been expanded in CSHB 172(Fin) to include the requirement that a home rule charter be provided in cases involving direct home rule incorporation. Since that possibility for incorporation has been deleted in HB 72, section 29.05.060(13) should also be deleted from the bill, but appears to have been inadvertently carried over from CSHB 172(Fin).

Because of the extensive changes made in chapter 10, the sections in that chapter were renumbered. Section 29.10.080

*Call Bob
Berry*

dealing with charter amendment was originally section 29.10.100. In HB 72, section 29.10.100 (as renumbered) refers to the section dealing with charter amendment in paragraph (7) as it was originally numbered. This should be corrected to reflect the new numbering in HB 72.

Section 29.40.200 has been altered in the new bill. The provision prohibiting the platting authority from disapproving a subdivision of state land on the basis of requirements for capital improvements has been deleted. Since the section no longer refers to "capital improvements" the definition of that term in subsection (e) should have been deleted, but was not. Subsection (d) from CSHB 172(Fin) has also been deleted. It provided:

Notwithstanding any other provision of law, the provisions of this section apply to all disposals of land under AS 38.05 or AS 38.08.

Section 29.60.120(3) was changed by inserting after "health facility" at the end of the paragraph the phrase "whether licensed or unlicensed". This section deals with aid to health facilities and hospitals. Under the definition of "health facility" along with certain other restrictions the term can include only licensed facilities when the license is required by the state. Presumably, the term also includes an unlicensed facility if the facility can be deemed to be a "health" facility and if the state does not require that it be licensed. HB 72 does not change the definition of "health facility", so it is unclear whether the change in paragraph (3) is intended to allow an entitlement to a facility that is not licensed even though the license is, in fact, required by the state. If so, it appears to contradict the definition. This section, as changed by HB 72 needs to be clarified.

Chapter 65 dealing with general grant land entitlements was changed in HB 72 to reflect amendments under chapter 152, SLA 1984. However, not all the amendments made last year were picked up in HB 72. For example, changes in references from the "commissioner" to the director of the division of lands were not incorporated into HB 72. This chapter should be redrafted to include all changes made in 1984.

HB 72 contains some changes to the technical amendments at the end of the bill necessary to reflect legislation passed in 1984. The change to AS 38.05.321(c) contains a minor

Representative Peter Goll
February 8, 1985
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error that needs correcting and three sections altered in 1984 need to be added to the revision bill: AS 09.45.845, 19.30.260, and 19.30.280. In addition, AS 28.35.260(a)(10) was renumbered by the revisor in 1984 and needs to be corrected in the repealer section of HB 72. Sections 29.05.180 - 29.05.200 dealing with organization grants contained dates that should be revised. Since HB 72 does not take effect until January 1, 1986 and these provisions are of a fiscal nature, it seems that the dates should be July 1, 1986.

Lastly, as I just mentioned, HB 72 makes the revision effective January 1, 1986. CSHB 172(Fin) had an effective date tied to the fiscal year. Since the provisions dealing with taxation needed to correspond to the calendar year, certain sections of that bill had a January 1 effective date. HB 72 avoids the complexities caused by having two effective dates. However, this may create some slight administrative difficulty with the revenue sharing provisions which contain some changes that would then be in effect for only half a fiscal year.

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

TBC:ojb
J11/068