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Section-by-Section Analysis

SCS CSHB 72 (Jud)

FOURTEENTH LEGISLATIVE SESSION

* Sec. 1. This is a purpose clause indicating the intent of the legislature to revise and reorganize the municipal code so local government can function more effectively. The legislature does not intend to alter the balance of authority between the state and local governments with respect to resource development or alter the authority of state agencies to carry out their functions under other titles.

* Sec. 2.

Sec. 29.03.030 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.

* Sec. 3. CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.04.010. No substantive change. (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. (AS 29.08.040(a))

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

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

(d) 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. The material dealing with a combined assembly and school board is entirely deleted. (AS 29.08.045(a),(b))

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

* Sec. 4. CHAPTER 05. INCORPORATION.

Sec. 29.05.010. No substantive change (AS 29.18.011)

Sec. 29.05.020. The term "organized borough" is altered to "borough", which is defined for the title. (AS 29.18.020)

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))

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

Sec. 29.05.070. 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 word "municipality". The last line of the current section is dropped as no longer necessary. The provisions of this section apply to all 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) This is added to clarify 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(2).

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 incorporated after December 31, 1985. 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 in the unorganized borough 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 December 31, 1985. 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.

* Sec. 5. CHAPTER 06. ALTERATION OF MUNICIPALITIES.

Sec. 29.06.010. The phrase "ratified by the qualified voters voting on the question at a regular or special election" is replaced by "ratified by the voters". The word "voter" is 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 (32).

~~Sec. 29.06.040.~~ (a) Authorizes an appeal of a decision of the Local Boundary Commission regarding a proposed municipal boundary change. (AS 29.68.010(a))

(b) No substantive change. (AS 29.68.010(a))

(c) Deletes outdated time period during which the Local Boundary Commission was to establish certain procedures.
(AS 29.68.010(b))

(d) Reorganized but no substantive change.
(AS 29.68.010(c))

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 under AS 29.13.100(26).

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 words "existing" and "proposed" are 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" which is defined for the title. 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 clarifying 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(27).

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. No substantive change. (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 to the voters 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 listed as home rule 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 clarifying that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100(28) makes these sections applicable to home rule municipalities under current law.

* Sec. 6. CHAPTER 10. HOME RULE MUNICIPALITIES.

Sec. 29.10.010. A first class city or borough of any class may adopt a home rule charter. This is a change from existing law which allows first class boroughs and cities, and second class boroughs to adopt a charter, but does not authorize a third class borough to adopt a charter. An area in the unorganized borough may adopt a charter and incorporate as a home rule borough. A proposed charter for an unincorporated area is prepared by the petitioners and filed with the incorporation petition. (AS 29.13.010)

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

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 borough, 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 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 borough 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;
- (29) regulation of firearms;
- (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;
- (45) 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).

* Sec. 7. CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

Sec 29.20.010. Each municipality shall 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 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 29.23.370)

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. Municipal employment is added in AS 29.23.540(a). 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)

* Sec. 8. 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 a fine of \$1,000 and imprisonment for 90 days may be imposed for a violation of an ordinance. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. 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)

* Sec. 9. 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. To qualify to vote in municipal elections a person must have been registered to vote in state elections for at least 30 days preceding the municipal election. Existing law requires only that the person be registered to vote in state elections without a durational requirement. 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, and is between the two candidates that received the greatest number of votes for the seat. (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 120 days 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 where 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).

*Sec. 10. 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, 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, 29.48.040)

Sec. 29.35.030. This deletes the requirement that a second class city obtain formal approval of the Department of Community and Regional Affairs, before exercising eminent domain and declaration of taking. 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 non-areawide 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 29.48.050(c) is deleted. (AS 29.48.050(b))

Sec. 29.35.070. The governing body may regulate rates and charges of a utility that is not subject to regulation under AS 42.05 exempted from regulation or. 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, 29.48.070)

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. 29.35.140. No substantive change. (AS 29.48.036)

Sec. 29.35.145. This is a new section prohibiting a municipality from restricting the right to own and possess firearms or transport unloaded firearms except by ordinance ratified by the voters.

Sec. 29.35.150. Statutory references have been added to reflect reorganization. (AS 29.33.010(a))

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. 11. 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) Requires 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. For violations involving land use regulation a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. (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))

Sec. 12. 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 or a disabled veteran 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. (AS 29.53.020)

Sec. 29.45.040. No substantive change. (AS 29.73.060)

Sec. 29.45.045. No substantive change. (AS 29.73.062)

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. No substantive change. (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. 29.45.103. Minor rewording. (AS 29.53.103)

Sec. 29.45.105. Minor rewording. (AS 29.53.105)

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

Sec. 29.45.120. "Assembly" is replaced by "municipality". (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 may be punished under a municipal ordinance prescribing a penalty not to exceed a fine of \$1,000 or imprisonment for 90 days. 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" and "borough" are replaced by "municipality". (AS 29.53.095)

Sec. 29.45.160. No substantive change. (AS 29.53.100)

Sec. 29.45.170. No substantive change. (AS 29.53.110)

Sec. 29.45.180. No substantive change. (AS 29.53.120)

Sec. 29.45.190. No substantive change. (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 29.53.160)

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. (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)

* Sec. 13. 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)

* Sec. 14. 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 from any source except revenues at the municipality. 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.

* Sec. 15. 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)

* Sec.16. 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, which included within the population determination the population of any military reservation that is part of the taxing unit. 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). A health facility must be licensed or certified by the state or approved under regulations. It specifically includes certain domestic violence or sexual assault shelters and alcohol or drug abuse facilities. (AS 29.89.030, 29.89.100(2) and (3))

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. Authorizes area cost-of-living differentials to be reflected in payments to volunteer fire departments. (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. 29.60.280. 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. 29.60.400. Reorganized and reworded. (AS 29.89.110(a), (b), (h)(2))

Sec. 29.60.410. Reorganized and reworded. (AS 29.89.110(b), (e))

Sec. 29.60.420. Reorganized and reworded. (AS 29.89.110(f), (g))

Sec. 29.60.430. Reorganized and reworded. (AS 29.89.110(c))

Sec. 29.60.440. Reorganized and reworded. (AS 29.89.110(d))

* Sec. 17. CHAPTER 65. GENERAL GRANT LAND.

Sec. 29.65.010. (b) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.201)

Sec. 29.65.020. (b) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.202)

Sec. 29.65.030. (c) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (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 specific home rule limitation under existing law.

* Sec. 18. 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. (AS 29.78.010(18))

(2) this is added;

(3) includes home rule as well as general law boroughs; (AS 29.78.010(1))

(4) includes home rule as well as general law cities; (AS 29.78.010(2))

(5) 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; (AS 29.78.010(7))

(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(19))

(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; and

(25) a person qualified to vote in municipal elections under the applicable statute is a "voter". (AS 29.78.010(17))

The definition of "conditional use" has been eliminated. (AS 29.78.010(3))

* Sec. 19. A definition of "municipality" is added for all Alaska Statutes.

* Sec. 20. The statutory references are altered to reflect new numbering.

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

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

* Sec. 23. Incorporates definition of "municipality" added for all Alaska Statutes.

* Sec. 24. The statutory references are altered to reflect new numbering. Minor rewording.

* Sec. 25. Statutory references are altered to reflect new numbering.

* Sec. 26. Reworded to delete incorrect statutory references.

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

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

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

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

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

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

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

* Sec. 37. The statutory references are altered to reflect new numbering.

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

* Sec. 39. The statutory references are altered to reflect new numbering.

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

* Sec. 41. Minor rewording for consistency.

- * Sec. 42. Redundant language is deleted because "municipality" is defined for all statutes.
- * Sec. 43. Minor rewording and statutory references are altered.
- * Sec. 44. The statutory reference is altered to reflect new numbering.
- * Sec. 45. Minor rewording. Incorrect statutory references are deleted.
- * Sec. 46. The statutory reference is altered.
- * Sec. 47. The statutory reference is altered.
- * Sec. 48. The statutory reference is deleted as unnecessary.
- * Sec. 49. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.
- * Sec. 50. A statutory reference is included to reflect new numbering. "Former" is added before citations to sections repealed in this bill.
- * Sec. 51. The statutory reference is deleted.
- * Sec. 52. The word "former" is added before the statutory citation because those sections are repealed in this bill. A statutory reference is included.
- * Sec. 53. The statutory reference is deleted.
- * Sec. 54. The statutory reference is deleted.
- * Sec. 55. The statutory reference is altered to reflect new numbering.
- * Sec. 56. The statutory reference is added to reflect new numbering and "former" is inserted before repealed sections.
- * Sec. 57. The statutory reference is added to reflect new numbering and "former" is inserted before repealed sections.

* Sec. 58. Minor rewording. The statutory references are altered to reflect new numbering and "former" is added before repealed sections

* Sec. 59. The statutory reference is added and "former" is added before repealed sections.

* Sec. 60. The statutory references are added to reflect new numbering and "former" is added before repealed sections.

* Sec. 61. The statutory reference is altered to reflect new numbering.

* Sec. 62. Rewording and the statutory reference is deleted.

* Sec. 63. The statutory references are altered to reflect new numbering. Minor rewording,

*Sec. 64. The statutory references are altered to reflect new numbering and "former" is inserted before the citation to repealed sections.

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

* Sec. 66. Reworded and a statutory reference is deleted.

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

* Sec. 68. The statutory references are altered to reflect new numbering.

* Sec. 69. The statutory reference is altered to reflect new numbering and reference to a repealed chapter is deleted.

* Sec. 70. The statutory references are altered to reflect new numbering. "Former" is added before sections repealed in this bill.

* Sec. 71. Statutory reference is altered.

* Sec. 72. The statutory references are deleted as unnecessary.

* Sec. 73. Statutory references are altered.

* Sec. 74. 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. 75. The statutory reference is altered to reflect new numbering.

* Sec. 76. The statutory reference is altered to reflect new numbering.

* Sec. 77. The statutory reference is altered to reflect new numbering.

* Sec. 78. The new statutory reference is inserted and "former" added before the citation to a section repealed by this bill.

* Sec. 79. The new statutory references are inserted and "former" added before citations to sections repealed by this bill.

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

* Sec. 81. The statutory reference to a repealed section is deleted and language inserted to take the place of the deleted reference.

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

* Sec. 83. The statutory references are deleted as unnecessary.

* Sec. 84. The statutory references are altered to reflect new numbering.

* Sec. 85. The statutory references are deleted as unnecessary.

* Sec. 86. The statutory references are altered to reflect new numbering.

* Sec. 87. 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. 88. 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. 89. The Act takes effect January 1, 1986.

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:ojb
AS29/004



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

April 30, 1985

Letter of Intent to Accompany Senate Committee Substitute
for Committee Substitute for House Bill 72 (Judiciary)

It is not the intent of the Legislature through the passage of HB72 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.

It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee


Pat Rodey, Chairman

April 30, 1985

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It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee

Pat Rodey, Chairman

By E. E. Wohlforth

A M E N D M E N T

Offered in the SENATE

TO: CSHB 72 (C&RA) am

Page 151, line 17, after "(a)":

DELETE paragraph (a) and INSERT:

"A municipality may authorize by ordinance or resolution the issuance of negotiable or nonnegotiable revenue bonds to finance any project which serves a public purpose, and the bonds shall be payable from any revenues of the municipality except tax revenues."

1 delivery of emergency services;

2 (6) enter into contracts to carry out the provisions of
3 this section;

4 (7) employ personnel necessary to carry out the provisions
5 of this section.

6 (d) In this section

7 (1) "emergency services" means services provided by law
8 enforcement agencies, fire departments, ambulance services, and other
9 organizations that are intended to respond to emergency situations of
10 imminent danger to life or property;

11 (2) "state agency" means a department, division, or office
12 in the executive branch of state government.

13 Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A
14 municipality may not regulate an activity regarding transportation of
15 passengers or freight for hire if the regulation conflicts with the
16 regulation of that activity by the Alaska Transportation Commission as
17 the regulation existed on April 1, 1983 under former AS 02.05, former
18 AS 42.07, or former AS 42.10.

19 Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may
20 not, except by ordinance ratified by the voters, restrict the right to
21 own or possess firearms or transport unloaded firearms.

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

24 ARTICLE 2. MANDATORY AREAWIDE POWERS.

25 Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. A borough shall
26 exercise the powers as specified and in the manner specified in
27 AS 29.35.150 - 29.35.180 on an areawide basis.

28 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a
29 borough school district and establishes, maintains, and operates a

A M E N D M E N T

Offered in the SENATE

TO: CSHB 72(C&RA) am

Page 34, after line 4 insert the following new paragraph:

"(29) AS 29.35.145 (regulation of firearms):

Re-number the following paragraphs accordingly.

Page 81, after line 7 insert the following new section:

"Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not restrict the right to own, possess, or transport firearms except by ordinance ratified by the voters.

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

BY ARECA

AMENDMENT

Amend p. 78, lines 1 through 4

after the word "utility" on line 1

Delete "to the extent" and delete all language on lines 2 through 4, and in its place insert the following:

"that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d)-(k)."

Amend p. 74, line 25

After the word "disposal,"

Delete "utility service,"

Amend p. 75, after line 7, insert:

"(c) A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits.

Redesignate existing subsection (c) as subsection (d).

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

Date April 18, 1985

Mr. President

The Committee on C&RA considered CSHB 72(C&RA) am
municipal government; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman
[Signature]
Chairman recommendation

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSHB 72(C&RA) am

Affairs Committee

Page 1, after line 8, insert a new bill section to read:

"* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code to permit local government to function more effectively. Except as expressly provided, the legislature does not intend by this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend by this Act to increase or reduce the authority of state agencies to carry out their functions under other titles."

Page 1, line 9, delete "* Section 1." and insert "* Sec. 2."

Renumber following bill sections accordingly.

Page 2, line 4, delete "600" and insert "400"

Page 4, line 2, delete "home rule or"

Page 4, line 4, delete "600" and insert "400"

Page 6, line 13, delete "home rule or"

Page 6, line 21, delete "municipality" and insert "borough"

Page 8, line 14, delete "municipality" and insert "borough"

Page 11, line 3, delete "home rule or"

Page 28, line 28, after "ment." through page 29, line 4:

Delete all material and reletter following subsections accordingly.

Page 29, line 15, delete "unincorporated community or an"

Page 29, line 18, delete "municipality" and insert "borough"

Page 29, lines 20 and 21:

Delete "and at least one model home rule charter for a city"

Page 29, line 21, delete "charters" and insert "charter"

Page 29, line 23, delete "municipality" and insert "borough"

Page 31, line 6, delete "unincorporated community or for an"

Page 31, line 11, delete "unincorporated community or in an"

Page 31, lines 12 and 13, delete "municipality" and insert "borough"

Page 31, lines 13 and 14, delete "municipality" and insert "borough"

Page 32, line 18, delete "municipality" and insert "borough"

Page 32, line 19, delete "unincorporated community or"

Page 55, lines 15 - 19, after "PROHIBITIONS.":

Delete all material and reletter the following subsections accordingly.

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



Official Business

April 18, 1985

Letter of Intent to Accompany Committee Substitute for
CSHB 72 (C&RA) am

It is not the intent of the Legislature through the passage of HB 72 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 & REGIONAL AFFAIRS

A handwritten signature in cursive script, appearing to read "Edna DeVries".

Senator Edna DeVries, Chairman

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/15/85

Page 1 of 2

REQUEST

Bill/Resolution No.: CSHB 72 (C&RA)
Title: An Act Relating to
Municipal Government
Sponsor: Rules/Governor
Requestor: Senate C&RA Committee
Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
Program Category Affected: _____
Community Development
BRU, Program or Subprogram(s) Affected: _____
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						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-	400.0	350.0		
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	400.0	350.0		

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	400.0	350.0		
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	400.0	350.0		

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED ANALYSIS

Prepared By: Doug Griffin, Deputy Director *frk* Phone: 465-4750
Division: Municipal & Regional Assistance Date: 3/15/85

Approved by Commissioner: [Signature] Date: 3/15/85
Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note): *Super*
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84

MS-12

CSHB 72

AN ACT RELATING TO MUNICIPAL GOVERNMENT

ANALYSIS: This bill commits the State to paying increased levels of transitional assistance to newly incorporated cities and boroughs. However, given the increasingly complex requirements for incorporation, the fact that the bill does not become effective until January 1, 1986 (half way through FY 86), and the ability to request supplemental funding to pay transitional grants after the fact on a reimbursement basis, assumptions have been changed to produce a zero fiscal effect for FY 86. This will prevent money from being tied up to address incorporations which may not occur.

The Legislature does need to acknowledge that the bill does carry possible increased financial obligations, but it is impossible to predict when these added costs will be borne by the State. For this reason, the fiscal note reflects no additional cost for FY 86, but assumptions for future years are included as follows:

Assumptions: FY 86 - no incorporations
 FY 87 - two cities and one borough incorporate
 FY 88 - two cities incorporate

Program Summary: The only portion of this bill which will create fiscal impact is Sec. 29.05.180-190 which provides additional transitional assistance through increased organizational grants. 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 this fiscal note.

Computations:

Grants in FY 86.....	-0-
Grants in FY 87.....	400.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$300,000 per -- first year grant)	
Grants in FY 88.....	350.0
(2 cities @ \$50,000 per -- first year grant)	
(2 cities @ \$25,000 per -- second year grant)	
(1 borough @ 200,000 per -- second year grant)	

Economic Impact: The economic impact on 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
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

April 25, 1985

SUBJECT: Municipal Financing
(CSHB 72(C&RA) am)

TO: Senator Pat Rodey, Chairman
Senate Judiciary Committee

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

You have asked me about a letter from Mr. Eric E. Wohlforth concerning Sec. 29.47.390(a) in the municipal code revision bill. In the earliest versions of the bill that subsection read:

A city or borough may authorize by ordinance or resolution the issuance of revenue bonds to finance any project which serves a public purpose, and the bonds shall be secured and payable solely from the revenue and property of the project. (Emphasis added)

The subsection was altered in HCS CSSB 180(Jud) during the Second Session of the Twelfth Legislature and has remained in this form during all subsequent versions of the municipal code revision:

A municipality may authorize by ordinance or resolution the issuance of negotiable or nonnegotiable revenue bonds to finance any project that serves a public purpose, and the bonds shall be secured and payable from any source except revenues, including tax revenue, of the municipality. (Emphasis added)

I have checked the committee files and this change was included within a list of several changes adopted by the House Judiciary Committee that appear to be unrelated to each other. I have no idea why it was originally proposed.

Senator Pat Rodey
April 25, 1985
Page 2

Mr. Wohlforth points out in his letter that the language virtually prohibits any revenue bonds because all receipts of a municipality from any source are revenues. He suggests the language be changed to ". . . from any revenues of the municipality except tax revenues." This would, I believe, grant authority to a municipality to issue revenue bonds that are secured by certain assets, but not necessarily by revenue generated from the project for which the bonds are issued. Existing law seems to provide for this possibility in AS 29.58.200(c):

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

I certainly do not object to the change recommended by Mr. Wohlforth and, as it would probably serve to improve an unworkable section, I encourage the committee to consider adopting it. Please note, however, that while it could be concluded from the letter that under CSHB 72(C&RA) am no municipality can effectively issue any revenue bonds at all, this is not the case. Even though it may not be practical for a municipality to issue revenue bonds under Sec. 29.47.390(a), as Mr. Wohlforth asserts, a municipality is also given authority to issue revenue bonds under Sec. 29.47.240 for "a public enterprise or public corporation of the municipality" or for "the purchase of residential mortgage loans".

TBC:ojb
J14/042

4/29/85

To: JNU

Senate Judiciary Committee

Senators: Rodley

Kelly

FAIKS

HALFORD

Ziegler

Interior Delegation

Senators: FAHRENKAMP.

BENNETT

COGHILL

Reps: DAVIS

RINGSTAD

KOPONEN

FRANK

M. W. MILLER

from: WOLFGANG FA... - FAIRBANKS LIO

3 pages

Testimony for meeting.

P.O.Box 1166
Fairbanks, Alaska 99707
452-4275

Senate Judiciary Committee,
Senator Rodey, Chairman
Pouch V
Juneau, Alaska 99811

April 29, 1985

Request: Enter the following as testimony at the Senate Judiciary Committee meeting scheduled for Tuesday 4-30-85, 1:30 p.m..

Re.: Opposition to CSHB 72 (C&RA) (am), an act substantially altering local government law in pertinent part contrary to constitutional mandates and contrary to the good of the people as a whole.

Dear Senator Rodey:

CSHB 72 (am) violates numerous constitutional provisions and should it become law, it will

1) infringe on every individual's property and liberty rights guaranteed by both, the U.S. Constitution and the Constitution of the State of Alaska,

2) literally overthrow the constitutional mandate for maximum local self-government,

3) infringe on the right to voter approval of additional municipal powers to be exercised by the Fairbanks North Star Borough and other second class boroughs,

4) abolish the right to reclassify to third class borough status and prohibit the establishment of new third class boroughs,

5) abridge the right to petition the local governments (under present law any individual can circulate a petition to initiate a new ordinance or to bring before the voters for approval an enacted ordinance; under the proposed new law at least ten registered voters must apply to the borough or city clerk for approval of a proposed petition and must be registered as sponsors with the clerk; and only sponsors may solicit signatures),

6) change the combined penalty and interest rates for unpaid taxes from the present 18% to an usurious 35%,

7) confer land use regulation powers to the borough and permit the exercise of economic development powers to the borough circumventing the legally required local voter approval, (borough

exercise of economic development powers may result in the borough take-over of privately operated water and sewer systems, the telephone service, and in effect the borough may run anything from a drug store to a petrochemical plant, including drilling for gas, oil or geothermal, and all without mandatory voter approval!)

8) and will deny the people the right to a trial by jury and a "trial de novo" to appeal an administrative action involving an alleged violation or threatened violation of a local ordinance, and will impose excessive fines (90 days imprisonment and \$1,000 for each day a threat to violate an ordinance or for each day a violation of an ordinance continues) and does not even require the administration to establish a harm in such an action.

This is only the tip of the iceberg of the drastic changes of local government law proposed by HB 72 and SB 142.

This legislation is lobbied for by the Department of Community and Regional Affairs, the Alaska Municipal League, and some other pro-more-government-control special interest groups and is falsely alleged as only reorganizing a poorly organized municipal code.

I believe that present law adequately provides the necessary provisions for the administration of orderly local self-government as demanded by the Alaska Constitution.

Present law indiscriminately confers all municipal powers to any class of borough or city. Third class boroughs must exercise the areawide powers of tax assessment and collection, and education; second class boroughs must exercise the areawide powers of tax assessment and collection, education, and planning, platting and zoning. Any additional powers proposed for exercise by a second or third class borough must be approved by the local voters affected; and if more than one power is proposed, each must appear separately on the ballot. That is the law that was approved by the citizens when they voted to incorporate as a second or third class borough, and the legislature cannot legally change that law without the approval of the voters of existing second or third class boroughs.

The Municipal League erroneously alleges that "the reason for prohibiting any new third class boroughs is that state law limits the powers of third class boroughs making it difficult for the locality to spend revenue sharing money they collect from the State". State law does not limit the powers of a second or third class borough - the citizens do, by a majority vote of the local electorate! The citizens of a third class borough can approve by majority vote any additional municipal power they would like their local government to exercise on a service area basis, and should they desire their local government to exercise areawide or non-areawide additional powers they would vote to reclassify to second or first class status.

Clearly, there is no demonstrated need for this bill. Further, it is irresponsible to pass such a bill during the the last days of the first session of the 14th Legislature. There was virtually no input from the people, only the government special interest lobby was heard. This bill must be brought before the people before action is taken by the Senate. The time between the first and the second session of a legislature was intended to be used by the law makers to bring such bills to the attention of the public and to obtain public input before final consideration.

HB 72 and SB 142 must not become law! Present law very adequately provides the necessary provisions for orderly local municipal government.

For the reasons stated above, and for the good of the people as a whole, CSNB 72 (am) and CSSB 142 must not pass out of your committee.

Very truly yours,



Wolfgang Falke

cc: All members of Senate Judiciary Committee
and Fairbanks Delegation

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

Date April 18, 1985

Mr. President

The Committee on C&RA considered CS HB 72(C&RA) am
municipal government; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signature]
[Handwritten signature]
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MEMBERS HAVING
OTHER RECOMMENDATIONS

[Handwritten signature]
Chairman

[Handwritten signature]
Chairman recommendation

3/11/85 1:30p

Cook ✓

*Passed
11/30/85*

A M E N D M E N T

Offered in the SENATE

TO: SB 142

By the Community and Regional
Affairs Committee

Page 1, after line 8, insert a new bill section to read:

"* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code to permit local government to function more effectively. Except as expressly provided, the legislature does not intend by this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend by this Act to increase or reduce the authority of state agencies to carry out their functions under other titles."

Renumber following bill sections accordingly.

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSHB 72(C&RA) am

Affairs Committee

✓ Page 1, after line 8, insert a new bill section to read:

"* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code to permit local government to function more effectively. Except as expressly provided, the legislature does not intend by this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend by this Act to increase or reduce the authority of state agencies to carry out their functions under other titles."

Page 1, line 9, delete "* Section 1." and insert "* Sec. 2."

Renumber following bill sections accordingly.

✓ Page 2, line 4, delete "600" and insert "400"

✓ Page 4, line 2, delete "home rule or"

✓ Page 4, line 4, delete "600" and insert "400"

✓ Page 6, line 13, delete "home rule or"

✓ Page 6, line 21, delete "municipality" and insert "borough"

✓ Page 8, line 14, delete "municipality" and insert "borough"

✓ Page 11, line 3, delete "home rule or"

✓ Page 28, line 28, after "ment." through page 29, line 4:

Delete all material and reletter following subsections accordingly.

✓ Page 29, line 15, delete "unincorporated community or an"

✓ Page 29, line 18, delete "municipality" and insert "borough"

✓ Page 29, lines 20 and 21:

Delete "and at least one model home rule charter for a city"

✓ Page 29, line 21, delete "charters" and insert "charter"

✓ Page 29, line 23, delete "municipality" and insert "borough"

✓ Page 31, line 6, delete "unincorporated community or for an"

✓ Page 31, line 11, delete "unincorporated community or in an"

✓ Page 31, lines 12 and 13, delete "municipality" and insert "borough"

this word is wrong
→ Page 31, lines 13 and 14, delete "municipality" and insert "borough"

✓ Page 32, line 18, delete "municipality" and insert "borough"

✓ Page 32, line 19, delete "unincorporated community or"

Page 55, lines 15 - 19, after "PROHIBITIONS.":

Delete all material and reletter the following subsections accordingly.

*This was rejected
in S. Jud. - see
attached around
40 - 200 section*

Riley

2

A M E N D M E N T

Offered in the SENATE

TO: CSHB 72(C&RA) am

✓ Page 34, after line 4 insert the following new paragraph:

"(29) AS 29.35.145 (regulation of firearms):

Renumber the following paragraphs accordingly.

✓ Page 81, after line 7 insert the following new section:

"Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not restrict the right to own, possess, or transport firearms except by ordinance ratified by the voters.

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

SEE p 81 Line 7

Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not, except by ordinance ratified by the voters, restrict the right to own or possess firearms or transport unloaded firearms.

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

1 in the executive branch of state government.

2 Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A
3 municipality may not regulate an activity regarding transportation of
4 passengers or freight for hire if the regulation conflicts with the
5 regulation of that activity by the Alaska Transportation Commission as
6 the regulation existed on April 1, 1983 under former AS 02.05, former
7 AS 42.07, or former AS 42.10.

8 ARTICLE 2. MANDATORY AREAWIDE POWERS.

9 Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. A borough shall
10 exercise the powers as specified and in the manner specified in
11 AS 29.35.150 - 29.35.180 on an areawide basis.

12 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a
13 borough school district and establishes, maintains, and operates a
14 system of public schools on an areawide basis as provided in AS 14.-
15 14.060. A military reservation in a borough is not part of the bor-
16 ough school district until the military mission is terminated or until
17 inclusion in the borough school district is approved by the Department
18 of Education. However, operation of the military reservation schools
19 by the borough school district may be required by the Department of
20 Education under AS 14.14.110. If the military mission of a military
21 reservation terminates or continued management and control by a re-
22 gional educational attendance area is disapproved by the Department of
23 Education, operation, management, and control of schools on the mili-
24 tary reservation transfers to the borough school district in which the
25 military reservation is located.

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

28 Sec. 29.35.170. ASSESSMENT AND COLLECTION OF TAXES. (a) A
29 borough shall assess and collect property, sales, and use taxes that

(3)

the municipality. Per diem payments or reimbursements for expenses are not compensation under this section. (§ 2 ch 118 SLA 1972; am § 1 ch 43 SLA 1979)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 258 et seq. 62 C.J.S., Municipal Corporations, §§ 522, 541. Effect of illegality of appointment or compensation, 7 AL

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253. Actions for compensation by de facto officers, 93 ALR 258; 151 ALR 952.

OR employment

Sec. 29.23.540. *29.55* **Conditions.** (a) A person may not be appointed to or removed from a municipal office or in any way favored or discriminated against with respect to a municipal position because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

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

(c) A state employee or school district employee may not be denied the right to serve as an elected municipal official because of employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, a school district employee may not serve on a school district board in the school district where employed. Provisions of this section do not apply to term of office in effect on August 24, 1976.

(d) For purposes of this section a school district employee is not a municipal employee. (§ 2 ch 118 SLA 1972; am § 1 ch 93 SLA 1976)

NOTES TO DECISIONS

Applied in *Acevedo v. City of North Pole*, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983).

Sec. 29.23.550. **Personnel system.** All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system. (§ 2 ch 118 SLA 1972)

Sec. 29.23.555. **Conflict of interests.** Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee may not participate in any official action in which the officer or employee has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically

In new manager. In assembly or council shall be vacant, the assembly ch 118 SLA 1972) appeal the manager first meeting after provisions for the administrator. (§ 2

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§ 29.23.540

MUNICIPAL GOVERNMENT

§ 29.23.555

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Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 258 et seq. 62 C.J.S., Municipal Corporations, §§ 522, 541.

Effect of illegality of appointment or compensation, 7 ALR 1682.

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253.

Actions for compensation by de facto officers, 93 ALR 258; 151 ALR 952.

Re: [unclear]
Sec. 29.23.540. Prohibitions. (a) A person may not be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

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BY ARECA

AMENDMENT

④

Amend p. 78, lines 1 through 4

after the word "utility" on line 1

Delete "to the extent" and delete all language on lines 2 through 4, and in its place insert the following:

"that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d)-(k)."

Amend p. 74, line 25

After the word "disposal,"

Delete "utility service,"

⑤

Amend p. 75, after line 7, insert:

"(c) A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits.

Redesignate existing subsection (c) as subsection (d).

6

P. 77 L. 23 + 24 AFTER THE World Commission

Delete: or by the Alaska Transportation Commission

every place it appears, it is to be deleted



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

April 30, 1985

Letter of Intent to Accompany Senate Committee Substitute
for Committee Substitute for House Bill 72 (Judiciary)

It is not the intent of the Legislature through the passage of HB72 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.

It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee


Pat Fodey, Chairman