

SB

164

## **SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(RLS)**

*Prepared April 25, 1994 by Local Boundary Commission Staff  
Department of Community and Regional Affairs*

**"An Act providing that home rule cities in the unorganized borough are school districts; permitting the Local Boundary Commission to amend petitions for incorporation or proposing municipal boundary changes; applying existing standards of incorporation for boroughs to unified municipalities; applying existing standards of incorporation for first class cities to incorporation of a home rule city; and relating to reclassification of first class or home rule cities to second class cities, to municipal reclassification and to public hearings on reclassification, to formation of home rule cities and unified municipalities through incorporation, merger, or consolidation, to organization grants and transitional assistance for unified municipalities, to adoption of a home rule charter by a second class city, to dissolution of municipalities, to filing copies of an amended home rule charter, and to regulations of the local boundary commission dealing with standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification and dissolution."**

In general terms, the bill has the following effects:

- ❖ Permits first class and home rule cities to reclassify as second class cities; provides oversight of city reclassification, addresses standards and procedures for city reclassification. (Sections 2, 3, 4, 5, 30 and 31)
- ❖ Permits incorporation of home rule cities and unified municipalities; establishes standards for incorporation of home rule cities and unified municipalities; and affirms that home rule cities and home rule boroughs may be created through merger and consolidation. (Sections 6, 7, 8, 10, 11, 12, 13, 15, 16, 18, 19, 23, 24, 25, 26, 27 and 28)
- ❖ Affirms the Local Boundary Commission's authority to approve or amend petitions for municipal incorporation, annexation, detachment, merger, consolidation, and dissolution and to adopt regulations for such. (Sections 9, 14, 17, 21, and 30)
- ❖ Makes certain amendments regarding city school districts, dissolution, and home rule municipal governments. (Section 1 concerns city school districts; Sections 20 and 22 deal with dissolution; Section 29 concerns home rule charter amendments and Section 31 addresses home rule cities)

## SECTIONAL ANALYSIS CSSB 164(RLS)

*Prepared April 25, 1994 by Local Boundary Commission Staff  
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**"An Act providing that home rule cities in the unorganized borough are school districts; permitting the Local Boundary Commission to amend petitions for incorporation or proposing municipal boundary changes; applying existing standards of incorporation for boroughs to unified municipalities; applying existing standards of incorporation for first class cities to incorporation of a home rule city; and relating to reclassification of first class or home rule cities to second class cities, to municipal reclassification and to public hearings on reclassification, to formation of home rule cities and unified municipalities through incorporation, merger, or consolidation, to organization grants and transitional assistance for unified municipalities, to adoption of a home rule charter by a second class city, to dissolution of municipalities, to filing copies of an amended home rule charter, and to regulations of the local boundary commission dealing with standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification and dissolution."**

Section 1 recognizes that a home rule city in the Unorganized Borough is a city school district. Such is already recognized under AS 29.35.260(b). *[Amends AS 14.12.010, entitled, "Districts of state public school system".]*

Section 2 permits a first class or home rule city to reclassify as a second class city. It also revises procedures and establishes standards for reclassification of cities. Under the new procedures, the Department of Community & Regional Affairs reviews the reclassification proposal and the Local Boundary Commission conducts a hearing on the matter. If the Commission determines that the city proposed for reclassification meets standards set out in existing law for incorporation of the class of city proposed by the petition, and that reclassification is in the best interests of the state, it will approve the petition. *[Amends AS 29.04.040(a), a subsection of the section entitled, "Reclassification of second class cities".]*

Section 3 stipulates that voters or a city council may initiate a petition for reclassification. *[Amends AS 29.04.040(b), a subsection of the section entitled, "Reclassification of second class cities".]*

**Section 4** provides that the council of a city proposed for reclassification shall order an election on the proposed reclassification within 30 days of the receipt of notice from the Local Boundary Commission that it has approved a reclassification petition for that city. *[Amends AS 29.04.040(d), a subsection of the section entitled, "Reclassification of second class cities".]*

**Section 5** deletes the reference concerning reclassification only "to first class status," thereby acknowledging that home rule or first class cities may also reclassify to second class status. It also states provisions concerning the reclassification in clearer terms (i.e., "is reclassified" instead of "shall be considered reclassified"). *[Amends AS 29.04.040(e), a subsection of the section entitled, "Reclassification of second class cities".]*

**Section 6** permits incorporation of a home rule city. It also applies existing standards for incorporation of a first class city to incorporation of a home rule city. *[Amends AS 29.05.011(a), a subsection of the section entitled, "Incorporation of a city".]*

**Section 7** allows incorporation of a unified municipality. It applies existing standards for incorporation of a borough to the incorporation of a unified municipality. *[Amends AS 29.05.031(a), a subsection of the section entitled, "Incorporation of a borough".]*

**Section 8** requires that a petition to incorporate a unified municipality be signed by the same number of voters required under existing law for incorporation of a borough. It also requires that a petition to incorporate a home rule city be signed by the same number of voters required under existing law for incorporation of a first class city.

Further, this section of the bill requires that a petition to incorporate a unified municipality designate areawide powers to be exercised. It also requires that a petition to incorporate a home rule city designate the powers to be exercised. Lastly, it requires that a petition to incorporate a home rule city or a unified municipality include a proposed home rule charter. *[Amends AS 29.05.060 entitled, "Petition" (for incorporation).]*

**Section 9** affirms the Local Boundary Commission's authority to approve or amend a petition for incorporation of a municipal government. *[Amends AS 29.05.100(a), a subsection of the section entitled, "Decision" (of the Local Boundary Commission regarding incorporation).]*

**Section 10** recognizes that the home rule charter included with a petition to incorporate a home rule city or a unified municipality is adopted if the voters approve incorporation. *[Amends AS 29.05.110(d), a subsection of the section entitled, "Incorporation election".]*

**Section 11** adds a new subsection that provides that incorporation of a unified municipality dissolves all other municipalities within the boundaries of the unified municipality. *[Amends AS 29.05.140 entitled, "Transition".]*

**Section 12** extends organization grants to newly incorporated unified municipalities at the same level currently provided to newly incorporated boroughs. Current law does not extend organization grants to boroughs formed through merger or consolidation or to a unified municipality formed by unifying an existing borough and cities within it. Section 12 of this bill maintains that principle by not extending organization grants to a newly incorporated unified municipality "that occupies the area formerly occupied by a borough." *[Amends AS 29.05.190 entitled, "Organization grants to boroughs".]* Note: the question has been raised whether the bill repeals provisions for organizational grants to boroughs. It does not. This is clear from lines 7 -11, page 6, CSSB 164(RLS). The question apparently stems from Lines 12 ? 16, page 6 in which the word "municipality's" is substituted for the word "borough's" when stating the amount of the entitlement. In that context, the word "municipality" is defined by AS 29.71.800 (13) to include both boroughs and unified municipalities.

**Section 13** extends transitional assistance to newly incorporated unified municipalities at the same level currently provided to newly incorporated boroughs. The assistance includes: determining the population; helping to establish the initial sales and use tax assessment and collection department, if the unified municipality has adopted such a tax; and helping to determine the

initial property tax assessment roll if the unified municipality has adopted a property tax. Current law does not extend transitional assistance to boroughs formed through merger or consolidation or to a unified municipality formed by unifying an existing borough and cities within it. Section 13 of this bill maintains that principle by not extending transitional assistance to a unified municipality "that occupies the area formerly occupied by a borough." *[Amends AS 29.05.210 entitled, "Transitional assistance to boroughs".]*

**Section 14** affirms the Local Boundary Commission's authority to amend a petition for municipal annexation or detachment. *[Amends AS 29.06.040(a), a subsection of the section entitled, "Local Boundary Commission" (review of annexation and detachment petitions).]*

**Section 15** affirms that a home rule city or a home rule borough may be formed through merger or consolidation. *[Amends AS 29.06.090(a), a subsection of the section entitled, "Merger and consolidation".]*

**Section 16** requires that a petition to form a home rule city or borough through merger or consolidation include a proposed home rule charter. *[Amends AS 29.06.100(b), a subsection of the section entitled, "Petition" (for merger and consolidation).]*

**Section 17** affirms the Local Boundary Commission's authority to approve or amend a petition for municipal merger or consolidation. *[Amends AS 29.06.130(a), a subsection of the section entitled, "Decision" (of the Local Boundary Commission regarding merger or consolidation petitions).]*

**Section 18** provides that the home rule charter included with a petition to merge or consolidate a home rule city or borough is adopted if the voters approve merger or consolidation. *[Amends AS 29.05.140(b), a subsection of the section entitled, "Election" (for merger or consolidation).]*

**Section 19** permits an area that has neither a city government nor an organized borough; or an area that has one or more city governments but no organized borough, to form a unified municipality. *[Amends AS 29.06.190 entitled, "Unification of municipalities authorized".]*

**Section 20** modifies the standard for dissolution of cities under AS 29.06.470(a)(3) to provide that the number of petition signatures required to meet the standard be based upon the last regular election in that municipality, as opposed to the last general election. The change makes the statutes consistent in the use of the last regular election of a municipality. *[Amends AS 29.06.470(a), a subsection of the section entitled, "Standards" (for dissolution).]*

**Section 21** affirms the Local Boundary Commission's authority to amend a petition for municipal dissolution. It also affirms that the dissolution standard in AS 29.06.470(a)(3) concerning the best interest of the state also applies under AS 29.06.470(a)(1) and (2). *[Amends AS 29.06.500(a), a subsection of the section entitled, "Decision" (of the Local Boundary Commission regarding dissolution petitions).]*

**Section 22** adds provisions concerning succession to a dissolved municipality by another municipal government or the State. Current law provides that a municipal successor or the State succeeds to all assets and liabilities of the dissolved municipality. Section 22 provides that a municipal successor or the State also succeeds to the rights, powers, and duties of the dissolved municipality. That provision is identical to existing law concerning succession to rights, powers, duties, assets and liabilities of municipalities as a result of municipal merger or consolidation [respectively, AS 29.06.150 (a) and (b)]. *[Amends AS 29.06.520 entitled, "Succession to assets and liabilities".]*

**Section 23** affirms that a home rule charter may be adopted through merger or consolidation, or as a result of the incorporation of a home rule city or unified municipality. *[Amends AS 29.10.010(c), a subsection of the section entitled, "Municipal charter adoption".]*

**Section 24** provides that a proposed charter for a home rule municipal government is prepared by the petitioners and is filed with the petition for incorporation, merger or consolidation. *[Amends AS 29.10.010(f), a subsection of the section entitled, "Municipal charter adoption".]*

**Section 25** requires the Department of Community & Regional Affairs to prepare a model charter for a home rule city and a unified municipality. [*Amends AS 29.10.020 entitled, "Model charters" ]*

**Section 26** provides that the proposed charter for a home rule municipal government that is to be formed by incorporation, merger or consolidation must be submitted to the voters for approval at the election held to incorporate, merge or consolidate. [*Amends AS 29.10.070 entitled, "Charter election".*]

**Section 27** provides that upon certification of voter approval at an election for the incorporation, merger or consolidation of a home rule municipal government, the charter becomes the organic law of a home rule municipal government. The municipality must file the charter with certain state and municipal officials. [*Amends AS 29.10.080(a), a subsection of the section entitled, "Charter adoption".*]

**Section 28** provides that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government, the charter is rejected. [*Amends AS 29.10.090(b), a subsection of the section entitled, "Charter rejection".*]

**Section 29** requires a home rule municipality to file a copy of amendments to its charter in the same manner that it was required to file its initial charter. [*Amends AS 29.10.100 entitled, "Charter amendment".*]

**Section 30** affirms the Local Boundary Commission's authority to adopt regulations for municipal incorporation, annexation, detachment, merger consolidation and dissolution. It also adds authority for the Commission to adopt regulations concerning municipal reclassification. [*Amends AS 44.47.567(a), a subsection of the section entitled, "Powers and duties" (of the Local Boundary Commission) !*]

**Section 31** eliminates the requirement that a city council hold a public hearing on a proposed reclassification of the city. As noted previously, Section 2 of CSSB 164(RLS) requires that the Local Boundary Commission hold a hearing on reclassification. A city council would not be prohibited from holding a hearing on the proposal in the course of preparing its petition for reclassification. Section 31 also repeals the provision that allows a second class city to adopt a home rule charter only if it has a population of at least 3,500 permanent residents and jurisdictional boundaries encompassing at least 35 square miles. *[Repeals AS 29.04.040(c), a subsection of the section entitled, "Reclassification of second class cities"] and repeals AS 29.10.010(b), a subsection of the section entitled, "Municipal charter adoption."]*

# Title Change in Sen(RLS)

No. 2

Bill Version: CSSB 164 (Jud)

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

## FISCAL NOTE

(S) Publish Date: 3-2-94

Revision Date: 3/1/94

Dept. Affected: Community & Regional Affairs

Title: \*An Act relating to municipal incorporation,  
reclassification and dissolution . . .\*

BRU: \_\_\_\_\_

Component: \_\_\_\_\_

Sponsor: Senate Community & Regional Affairs Com.

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

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

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Director Phone: 465-4708  
 Division: Administrative Services Date: 3/1/94  
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 3/1/94  
 Agency: Community & Regional Affairs

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(7)  
Date Referred: April 22, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Date of Committee Action: 3-26-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered: CSSB 164(RLS)

CS FOR SENATE BILL NO. 164(RLS) MUN INCORP/RECLASSIFICATION/DISSOLUTION

"An Act providing that home rule cities in the unorganized borough are school districts; permitting the Local Boundary Commission to amend petitions for incorporation or proposing municipal boundary changes; applying existing standards of incorporation for boroughs to unified municipalities; applying existing standards of incorporation for first class cities to incorporation of a home rule city; and relating to reclassification of first

(over for remainder of Title)

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title
- have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) C + R A

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>John P. Davis</i>	✓	<i>Ed Wallis</i>		<del>✓</del>	
<i>W. F. Williams</i>	✓				
<i>John D. ...</i>	✓				
<i>Harley Olberg</i>	✓				
<i>Bing Sanders</i>	✓				

*Harley Olberg*  
CHAIRMAN'S SIGNATURE