

SB

164

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 3/16/93

FURTHER: JUDICIARY

Date of 5-Day Notice: 3/25/93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

CRA Committee considered SB 164

"An Act relating to municipal incorporation, reclassification, and dissolution."

and recommends:

replace with _____ CS SB 164 (CRA)

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DORA	4/12/93	φ	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

[Signature]

OTHER RECOMMENDATIONS:

[Signature] - No Rec
[Signature] - No Rec

[Signature]

Chair, Signature and Recommendation

Revision Date: 3/1/94 Dept. Affected: Community & Regional Affairs
 Title: *An Act relating to municipal incorporation, reclassification and dissolution . . .* BRU: _____
 Sponsor: Senate Community & Regional Affairs Com. Component: _____
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: "An Act relating to municipal incorporation, reclassification and dissolution . . ." BRU: _____
 Sponsor: Senate Community & Regional Affairs Com. Component: _____
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

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: 1/31/94
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/31/94
 Agency: Community & Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to municipal BRU: _____
incorporation, reclassification, and dissolution Component: _____
 Sponsor: _____
 Requestor: Senator Phillips COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY93) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson *Remond Henderson* Phone: 465-4708
 Division: Administrative Services Date: 4-12-93
 Approved by Commissioner: *Tom R. Lynch Deputy Commissioner* Date: 4-12-93
 Agency: Community & Regional Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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Department of Community & Regional Affairs
Fiscal Note Analysis

Bill No. Senate Bill 164
Title: An Act Relating
to municipal incorporation,
reclassification, & dissolution

Per AS 24.08.035, (e), If a bill or resolution, except an appropriation bill, significantly increases costs to a municipality, there shall be attached to the measure a municipal fiscal note containing an estimate for the current fiscal year and five succeeding fiscal years of the cost to municipalities that would result from enactment of the measure. The last committee to which the bill is referred on the day it is introduced in the house of origin shall request the municipal fiscal note. It shall be prepared by the Department of Community and Regional Affairs.

The above referenced bill appears to have a significant cost increase to a municipality. A fiscal note is attached.

The above referenced bill does not appear to have a significant cost increase to a municipality. No fiscal note is attached.

Comments: DCRA has provided a suggested draft dated 3/25/93. As it has no cost effect on municipalities, no fiscal note has been attached for it.

Prepared by: Robert Walsh, Director
Division: Municipal & Regional Assistance Division

Phone: 269-4500
Date: 3/30/93

Approved by Commissioner: Sen 13214-1
Agency: _____

Date: April 1, 1993

Page: 1 of 1



ALASKA STATE LEGISLATURE

SENATOR RANDY PHILLIPS
SENATE DISTRICT L

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CHAIR
Legislative Budget & Audit
Community & Regional Affairs

VICE-CHAIR
Transportation

MEMBER
Alaska Commission on
Postsecondary Education

May 4, 1994

The Honorable Walter Hickel
Governor, State of Alaska
P. O. Box 110001
Juneau, Alaska 99801

Dear Governor Hickel:

Senate Bill 164 has been transmitted to you for signature. This bill makes important technical amendments to Title 29: Municipal Government regarding municipal incorporations, dissolutions, annexations, detachments, mergers, consolidations and reclassifications.

The Senate Community and Regional Affairs Committee introduced the bill on behalf of the Alaska Local Boundary Commission. The committee has worked closely with the Commissioners and staff of the LBC as well as the Department of Community and Regional Affairs.

Senate Bill 164 accomplishes changes to Title 29 that enables the Alaska Local Boundary Commission to better serve the needs of many communities and promote better local government.

I respectfully request your support in making the provisions of SB 164 law with your signature. If you have any questions about this bill, please call me at 465-4949.

Sincerely,

A handwritten signature in dark ink, appearing to read "Randy Phillips".

Randy Phillips
Senate District L



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
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Eagle River, Ak 99577
(907) 694-4949

MEMORANDUM

TO: Members of the Senate

FROM: Senator Randy Phillips, Chairman ^{REP}
Community and Regional Affairs Committee

DATE: April 20, 1994

SUBJECT: CSSB 164(RLS) - Municipal Incorporation,
Reclassification and Dissolution

The Senate Community and Regional Affairs Committee introduced SB 164 on behalf of the Alaska Local Boundary Commission. This bill cleans up some technical problem areas for the commission and clarifies LBC procedures. On behalf of the LBC I urge your support.

Attached is a summary of principal provisions of CSSB 164(RLS).

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(RLS)

“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.”

The bill has the following five principal effects:

- ❖ Allows first class and home rule cities to reclassify as second class cities.
- ❖ Provides oversight concerning municipal reclassifications.
- ❖ Permits incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.
- ❖ Clarifies procedures for action on petitions for municipal incorporation, annexation, detachment, merger, consolidation, dissolution and reclassification.
- ❖ Confirms the authority of the Local Boundary Commission to adopt regulations for incorporation and dissolution; and adds authority to adopt regulations for reclassification.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR PHILLIPS

TO: CSSB 164(JUD)

Page 1, lines 1 - 2:

Delete all material.

Insert ""An Act providing that home rule cities in the unorganized borough are school districts; and relating to reclassification of first class or home rule cities to second class cities, to petitions proposing reclassification and to public hearings on reclassification, to formation of home rule cities and unified municipalities through incorporation or merger and 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 amendment of a 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.""



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

MEMORANDUM

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

TO: Senator Rick Halford, President
Alaska State Senate

FROM: Senator Randy Phillips, Chairman ^{Rep}
Community and Regional Affairs Committee

DATE: April 14, 1994

SUBJECT: SB 164 - Municipal Incorporation, Reclassification
and Dissolution

Please calendar SB 164 for a floor hearing. The bill was introduced by Senate Community and Regional Affairs committee on behalf of the Alaska Local Boundary Commission.

Darroll Hargraves, Chairman of the LBC, is in town today and tomorrow to answer questions and his staff, Mr. Dan Bockhorst, will be available in Juneau tomorrow to answer questions.

Attached is a copy of the sectional analysis provided by the department.

Faxed 4-4-94
Original mailed 4-4-94
cc's mailed 4-4-94

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMUNITY AND
REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

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FAX: (907) 443-2409

April 4, 1994

The Honorable George Jacko
Senator
State Capitol
Juneau, Alaska 99801-1182

RE: CSSB 164(JUD)

Dear Senator Jacko:

This is to urge your support for CSSB 164(JUD). The bill makes technical amendments to laws concerning municipal incorporation, dissolution, annexation, detachment, merger, consolidation and reclassification. On March 2, CSSB 164(JUD) passed to the Senate Rules Committee where it remains today.

The bill serves the needs of many communities throughout Alaska. It is also promotes the interests of the State of Alaska. The following cites specific examples of the manner in which the bill serves these needs and interests.

- ❖ Residents or officials of Dillingham, St. Mary's and Galena have expressed interest in reclassifying their cities to cities of the second class. Under current law, such can only occur by initially dissolving the first class city and incorporating a new second class city - a relatively lengthy and expensive process. CSSB 164(JUD) allows direct reclassification of first class or home rule cities to second class cities.
- ❖ Residents of Nikiski have expressed interest in incorporating a home rule city. Current law does not allow such, although direct incorporation of home rule boroughs has been allowed since 1985. Under current law, Nikiski residents would be required first to incorporate a general law city and then adopt a home rule charter - a lengthy process. CSSB 164(JUD) allows direct incorporation of home rule cities.

- ❖ While not necessarily favoring borough formation at this time, residents of many unorganized areas of the state, including those in the Delta Greely Region and Copper River Basin have expressed support for the option of incorporating a unified municipality. A unified local government would avoid having multiple municipal governments within a single region. CSSB 164(JUD) permits direct incorporation of unified municipalities.
- ❖ Residents or officials of the Northwest Arctic Borough, Ketchikan Gateway Borough and Fairbanks North Star Borough are exploring the consolidation of certain cities in each of those areas with the region's borough government. CSSB 164(JUD) removes any question that home rule municipal governments could be formed through consolidation.
- ❖ Officials of the City of Ketchikan recognize that a complex municipal boundary proposal (such as their prospective consolidation proposal) would likely require amendment at some point in the proceedings. Thus, those officials have stressed the need to ensure that the Local Boundary Commission has broad authority to amend petitions that come before it. CSSB 164(JUD) accommodates that interest.
- ❖ The bill confirms that the Local Boundary Commission has discretion when acting upon petitions that come before it. Currently, the statutes expressly provide such discretion only in the case of annexation and detachment. The lack of express discretion with respect to dissolution, incorporation, merger and consolidation may result in approval of a petition that is not in the State's best interest. For example, it is interpreted by some that the Commission would have no choice under current law but to approve a proposal presently being contemplated to dissolve the City of Seldovia. It is claimed that the Commission would be compelled to approve the proposal even if the Kenai Peninsula Borough chose not to act as the dissolved city's successor. In that event, the State would be burdened with the duty of being the successor.
- ❖ The bill provides State oversight concerning municipal reclassification. The State has legitimate interests in any city reclassification, particularly in the reclassification of a second class city in the Unorganized Borough. Such automatically creates a new municipal school district that will almost certainly have significant regional and statewide effects. There are presently 27 second class cities in the Unorganized Borough that could unilaterally reclassify as first class cities under current law. The communities of Kwethluk and Fort Yukon are reportedly examining the option.
- ❖ The bill confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution. A superior court judge recently ruled that the Commission has such authority in the

Senator Jacko
April 4, 1994
Page Three

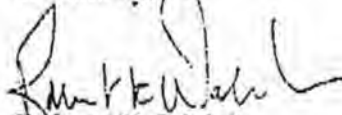
case of annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

In addition to providing examples of what the bill will accomplish, it is important to note what the bill will not do. Several members of the Legislature have recently contacted this office with questions concerning how CSSB 164(JUD) would affect pending petitions to detach more than 5,000 square miles from the Fairbanks North Star Borough and to incorporate a North Pole Borough encompassing more than 9,000 square miles.

CSSB 164(JUD) will have no effect whatsoever on decisions to be rendered by the Local Boundary Commission regarding those petitions. Criteria upon which these petitions will be judged are not affected in any way by CSSB 164(JUD). The detachment petition will be reviewed using standards that include those in Article X, Sections 1 and 3 of Alaska's Constitution; and 19 AAC 10.270. The North Pole Borough incorporation petition will be reviewed using the previously noted Constitutional provisions, plus the standards set out in AS 29.05.031 and 19 AAC 10.045 - 19 AAC 10.060.

If you have any questions or desire additional information concerning this matter, please call me at 269-4500.

Cordially,



Robert K. Walsh
Director

cc: Senator Randy Phillips, Chairman, Senate C&RA Committee
Representative Harley Olberg, Chairman, House C&RA Committee
Edgar Blatchford, Commissioner, Dept. of Community & Regional Affairs

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

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P.O. BOX 41 NOME, ALASKA 99762-0041 PHONE: (907) 443-5457 FAX: (907) 443-2403

March 23, 1994

The Honorable Bert Sharp State Senator District P Room 514 State Capitol Juneau, Alaska 99801-1182

BY FAX: 465-2070

RE: CSSB 164(JUD)

Dear Senator Sharp:

In response to your inquiry, CSSB 164(JUD) will have no effect whatsoever on decisions to be rendered by the Local Boundary Commission regarding the recently lodged petitions for: (1) detachment from the Fairbanks North Star Borough and (2) incorporation of the North Pole Borough. Criteria upon which these petitions will be judged by the Local Boundary Commission are not affected in any way by CSSB 164(JUD).

The Fairbanks North Star Borough detachment petition will be reviewed by the Commission using standards which include those in Article X, Sections 1 and 3 of Alaska's Constitution; and 19 AAC 10.270. If the Commission were to approve the detachment, it would also be subject to approval by either the Legislature or the voters of the area proposed for detachment.¹

The North Pole Borough incorporation petition will be reviewed by the Commission using the previously noted Constitutional provisions, plus the standards set out in AS 29.05.031 and 19 AAC 10.045 - 19 AAC 10.060. If the Commission were to grant the incorporation petition, it would also be subject to approval by the voters in the area proposed for incorporation.

While CSSB 164(JUD) will not affect decisions to be rendered in the North Pole case, it might have some impact on such a borough if it were formed. For example, Sections 12(c)

1 The detachment petition requests that the matter be submitted to the voters. Notwithstanding, the Commission may choose to submit the matter to the legislature for its review under the provisions of Article X, § 12 of Alaska's Constitution.

The Honorable Bert Sharp
March 23, 1994
Page Two

and 13(c) of the bill provide that a new borough is not entitled to organizational grants and transitional assistance if that borough "occupies the area formerly occupied by a borough."

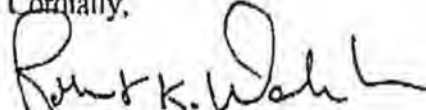
Those two particular provisions of the bill were prepared at the initiative of Legislative Affairs legal staff. As far as the Department and the Local Boundary Commission are concerned, those provisions are not essential to our strong support for the bill.

We note that the two subsections at issue would require interpretation, at least with respect to a proposed North Pole Borough. If approved, the North Pole Borough would encompass about 9,900 square miles, of which only about 5,200 square miles is within the current boundaries of the Fairbanks North Star Borough. The remaining 4,700 square miles lie outside an organized borough.² The bottom line is that it would require some interpretation as to whether CSSB 164(JUD) would render such a borough ineligible for organizational grants and transitional assistance.

If you are concerned about Section 12(c) and 13(c) of the bill, neither the Department nor the Local Boundary Commission would object to the amendment of those two subsections. It is our hope, however, that any concerns over those two subsections not cause extended delay in consideration of this important bill. Again, I wish to stress that CSSB 164(JUD) will have absolutely no effect regarding decisions to be rendered on the two petitions relating to the North Pole issue.

If you desire additional information or have any questions concerning this matter, please feel free to contact me or Dan Bockhorst, Local Boundary Commission staff at 269-4500.

Cordially,



Robert Walsh
Director

² To complicate things even further, a substantial portion of the remaining 4,700 square miles was included within the original boundaries of the Fairbanks North Star Borough as incorporated under the 1963 Mandatory Borough Act. Within a few months of its incorporation, the North Star Borough's original boundaries were adjusted under provisions of the Mandatory Borough Act through the legislative review process. The adjustment detached territory encompassing Delta Junction, Tok and other areas reaching to the Canadian border.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
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Eagle River, Ak 99577
(907) 694-4949

MEMORANDUM

TO: All Senators

FROM: Senator Randy Phillips, Chairman ^{KRP}
Community and Regional Affairs Committee

DATE: March 25, 1994

SUBJECT: SB 164 - Municipal Incorporation, Reclassification
and Dissolution

This bill was introduced at the request of the Alaska Local Boundary Commission. This bill cleans up some problem areas for the commission and resolves some other issues.

Attached is a copy of a summary analysis and sectional analysis provided by the Department of Community and Regional Affairs. This bill is currently in the Senate Rules Committee. Please read through the attached information prior to floor debate.

If you have technical questions on this bill, Mr. Dan Bockhorst is available at the DCRA's Anchorage office, 269-4559.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

MEMORANDUM

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 455-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

TO: Senator Rick Halford, President
Alaska State Senate

FROM: Senator Randy Phillips, Chairman ^{REP}
Community and Regional Affairs Committee

DATE: March 3, 1994

SUBJECT: SB 164 - Municipal Incorporation, Reclassification
and Dissolution

Please consider this memorandum a request for a Senate Rules Committee hearing and the calendaring of SB 164. This bill was introduced by Senate Community and Regional Affairs committee on behalf of the Alaska Local Boundary Commission.

I would appreciate the bill being scheduled for March 9, 1994, upon my return from the Arctic Winter Games. Advance notice to my office of calendaring would enable the Local Boundary Commission staff, Mr. Dan Bockhorst, to be available in Juneau for questions by members of the Senate.

Attached is a copy of the sectional analysis provided by the department.

03/02/94

SENATE JOURNAL

PAGE 3026

USB 164A

THE JUDICIARY COMMITTEE CONSIDERED SENATE BILL NO. 164 "AN ACT RELATING TO MUNICIPAL INCORPORATION, RECLASSIFICATION, AND DISSOLUTION" AND RECOMMENDED IT BE REPLACED WITH

YCS FOR SENATE BILL NO. 164(JUD), ENTITLED:
Y"AN ACT RELATING TO MUNICIPAL INCORPORATION,
RECLASSIFICATION, MERGER, CONSOLIDATION, ANNEXATION,
DETACHMENT, AND DISSOLUTION, AND TO MUNICIPAL SCHOOL
DISTRICTS."

SIGNING DO PASS: SENATOR TAYLOR, CHAIR. SIGNING NO RECOMMENDATION:
SENATORS DONLEY, LITTLE, JACKO.

ZERO FISCAL NOTE FOR THE COMMITTEE SUBSTITUTE PUBLISHED TODAY FROM
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

SENATE BILL NO. 164 WAS REFERRED TO THE RULES COMMITTEE.

04/26/93

SENATE JOURNAL

PAGE 1758

USB 164A

THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE CONSIDERED
SENATE BILL NO. 164 "AN ACT RELATING TO MUNICIPAL
INCORPORATION, RECLASSIFICATION, AND DISSOLUTION" AND RECOMMENDED IT
BE REPLACED WITH

YCS FOR SENATE BILL NO. 164(CRA), ENTITLED:
Y"AN ACT RELATING TO MUNICIPAL INCORPORATION,
RECLASSIFICATION, AND DISSOLUTION, AND MUNICIPAL
SCHOOL DISTRICTS."

SIGNING DO PASS: SENATOR PHILLIPS, CHAIR, SENATOR LEMAN. SIGNING NO
RECOMMENDATION: SENATORS ZHAROFF, ADAMS.

ZERO FISCAL NOTE FOR THE BILL AND THE COMMITTEE SUBSTITUTE PUBLISHED
TODAY FROM DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.

SENATE BILL NO. 164 WAS REFERRED TO THE JUDICIARY COMMITTEE.

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(RLS)

“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.”

The bill has the following five principal effects:

- ❖ Allows first class and home rule cities to reclassify as second class cities.
- ❖ Provides oversight concerning municipal reclassifications.
- ❖ Permits incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.
- ❖ Clarifies procedures for action on petitions for municipal incorporation, annexation, detachment, merger, consolidation, dissolution and reclassification.
- ❖ Confirms the authority of the Local Boundary Commission to adopt regulations for incorporation and dissolution; and adds authority to adopt regulations for reclassification.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

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Juneau, Ak 99801-1182
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MEMORANDUM

TO: All Senators

FROM: Senator Randy Phillips, Chairman ^{RRP}
Community and Regional Affairs Committee

DATE: March 25, 1994

SUBJECT: SB 164 - Municipal Incorporation, Reclassification
and Dissolution

This bill was introduced at the request of the Alaska Local Boundary Commission. This bill cleans up some problem areas for the commission and resolves some other issues.

Attached is a copy of a summary analysis and sectional analysis provided by the Department of Community and Regional Affairs. This bill is currently in the Senate Rules Committee. Please read through the attached information prior to floor debate.

If you have technical questions on this bill, Mr. Dan Bockhorst is available at the DCRA's Anchorage office, 269-4559.

Title Change Only on Rules CS

RLS

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(JUD)¹

"An Act relating to municipal incorporation, reclassification, merger, consolidation, annexation, detachment, and dissolution, and to municipal school districts."

*Summary prepared March 8, 1994 by Dan Bockhorst, Local Boundary Commission Staff,
Department of Community & Regional Affairs, telephone 269-4500*

- ❖ Establishes mechanism for first class and home rule cities to reclassify as second class cities. Under current law, such can only be done by dissolving the first class or home rule city and incorporating a second class city.
- ❖ Provides State oversight concerning all municipal reclassifications. The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough because it automatically creates new municipal school districts. There are 27 second class cities in the Unorganized Borough that could unilaterally reclassify to first class cities. That represents a potential 50% increase in the number of school districts. Communities which are presently unincorporated could add to that number.
- ❖ Permits direct incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation. Interest in such options is strong. In 1985, the law was amended to allow direct incorporation of home rule boroughs. Three of the four boroughs formed since that law took effect were home rule boroughs.
- ❖ Confirms the discretion of the Local Boundary Commission in approving, denying or amending petitions. The Local Boundary Commission clearly has discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion with respect to other petitions. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be the successor. The bill also ensures that when the State or a municipality is the successor to a dissolved municipality, it succeeds to the rights powers and duties of the dissolved municipality.
- ❖ Confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution. A superior court judge recently ruled that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

* For further analysis and details concerning the effects of CSSB 164(JUD), see the three-page "Sectional Analysis of CSSB 164(JUD)" prepared by DCRA on March 8, 1994.

SECTIONAL ANALYSIS

CSSB 164(JUD)
(RLS)

"An Act relating to municipal incorporation, reclassification, merger, consolidation, annexation, detachment, and dissolution, and to municipal school districts."

*Sectional analysis prepared March 8, 1994 by Dan Bockhorst, Local Boundary Commission Staff,
Department of Community & Regional Affairs, telephone 269-4500*

Section 1 simply recognizes under AS 14.12.010 what is already provided by AS 29.35.260(b) – that a home rule city in the Unorganized Borough is a city school district.

Section 2 makes the following changes:

1. It permits a first class or home rule city to reclassify as a second class city.¹
2. It provides State oversight in the reclassification of any city government.²

Sections 3 - 5 amend procedures for municipal reclassification to further implement State review of reclassification proposals. **Section 3** requires a petition to the Local Boundary Commission to initiate a reclassification proposal. **Section 4** requires the Local Boundary Commission to notify the city upon approval of a reclassification petition, thereby triggering a municipal election on the matter. **Section 5** eliminates references to particular classes of city government, thereby acknowledging that any class of city may be reclassified.

Section 6 allows incorporation of a home rule city.³

Section 7 allows incorporation of a unified municipality.⁴

-
1. Currently, this can be done only in effect by dissolving the home rule city or first class city and incorporating a second class city – a lengthy and difficult process.
 2. The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough, since such automatically creates new municipal school districts. Yet, under current law the State has no provision to regulate municipal reclassification. There are a total of 27 second class cities in the Unorganized Borough that could reclassify as first class cities. Some are currently exploring the possibility of doing so. There are also 11 unincorporated communities in the Unorganized Borough that could incorporate as second class cities and subsequently reclassify as first class cities. Collectively, those 38 communities represent a potential 70 percent increase in the number of school districts in Alaska. CSSB 164(JUD) assigns responsibility to the Local Boundary Commission to oversee reclassification.
 3. Under current law, forming a home rule city generally requires that a community first become a first class city and then undertake a separate process to adopt a home rule charter. Some communities have shown strong interest in allowing direct incorporation as a home rule city. State law was amended in 1985 to allow direct incorporation of home rule boroughs. Three of the four boroughs incorporated since then have incorporated as home rule boroughs. [Note: the Northwest Arctic Borough is not counted among the four. The Northwest Arctic Borough prepared its petition for incorporation before the 1985 law took effect. However, the Northwest Arctic Borough subsequently reclassified as a home rule borough.]
 4. There are presently three unified municipalities in Alaska – Anchorage, Juneau and Sitka. Under current law, in order to form a unified municipality, there must be both an organized borough and at least one city government. Interest has been expressed in allowing other regions of the state to form unified municipalities. These include areas which may have neither a city government nor an organized borough, or only cities.

Sections 8, 10 - 13 and 19 provide procedures for the incorporation of home rule cities and unified municipalities. Section 8 amends the law specifying the contents of a petition in the case of proposals for incorporation of home rule cities and unified municipalities. Section 10 acknowledges that if voters approve incorporation of a home rule city or unified municipality, the home rule charter is adopted. Section 11 adds a new section providing that incorporation of a unified municipality dissolves all other municipal governments within the boundaries of the unified municipality. Section 12 extends organizational grants to newly formed unified municipalities, except those that occupy the area formerly occupied by an organized borough.⁵ Section 13 extends transitional assistance to newly incorporated unified municipalities, again, except those that occupy the area formerly occupied by an organized borough. Section 19 amends current law to acknowledge that any of the following may incorporate as a unified municipality: a) an area which has neither a city government nor an organized borough; or b) an area which has one or more city governments, but no organized borough.

Sections 9, 14, 17 and 21 confirm that the Local Boundary Commission has discretion in the approval of all petitions that come before it.⁶ The referenced sections also confirm that the Commission has broad power to amend such petitions.⁷ Section 9 does so with respect to municipal incorporation, Section 14 concerns municipal annexation and detachment, Section 17 addresses merger and consolidation, and Section 21 confirms the Commission's authority to amend a dissolution petition and expressly extends requisite "best interests" determinations to all dissolutions.

Section 15 confirms that a home rule city or home rule borough may be formed through merger or consolidation.

Sections 16 and 18 amend existing procedures for merger or consolidation relating to home rule cities and home rule boroughs. Section 16 provides that a home rule charter must be included with a petition to form a home rule city or home rule borough through merger or consolidation. Section 18 states that a charter for a home rule city or home rule borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

⁵ Boroughs would remain eligible for organizational grants under this bill. The term "municipality" which is substituted for the term "borough" currently used under AS 29.05.190(a) and (b) does not mean only a unified municipality, but includes both boroughs and unified municipalities.

⁶ The Local Boundary Commission clearly has discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion with respect to other matters. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would become the successor.

⁷ The Department of Law has concluded that the Local Boundary Commission implicitly possesses such authority. For example, with respect to incorporations, the Department of Law noted, "[the statutes] do not bind the commission to either accept or reject the petition in its entirety . . . the commission is exercising a delegated fact finding function when it considers the creation of a new municipal government. The commission stands in the shoes of the state legislature when it considers these matters. Absent an express limitation on the powers of the commission, the commission should be presumed to possess the same powers as the legislature in this area." (Assistant Attorney General James L. Baldwin, inf. op. July 7, 1987; see also Assistant Attorney General James L. Baldwin, inf. op. May 30, 1984.)

Section 20 makes the statutes consistent in the use of the last regular election of a municipality as the basis for determining the number of signatures needed to file a petition to dissolve that municipality. This is currently the case in all instances except AS 29.06.470(a)(3), which bases the requirement on the last [State] general election.

Section 22 provides that when another municipal government or the State is the successor to a dissolved municipality, it succeeds to the rights, powers and duties of the dissolved municipality.⁸

Sections 23 - 28 make amendments relating to the creation of a home rule city or home rule borough through merger or consolidation, or the incorporation of a home rule city or unified municipality. **Section 23** acknowledges 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. **Section 24** provides that a proposed charter for a home rule municipal government is to be filed with the petition for incorporation, merger or consolidation. **Section 25** requires the Department of Community and Regional Affairs to prepare a model charter for a home rule city and a unified municipality. **Section 26** provides that the proposed charter for a home rule municipality to be formed by incorporation, merger or consolidation must be submitted to the voters for approval. **Section 27** stipulates that, upon certification of favorable election results, the charter becomes the organic law of a home rule municipal government formed by incorporation, merger or consolidation. **Section 28** states that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government the charter is rejected.

Section 29 requires a home rule municipality to file a copy of any amendments to its charter with certain officials.⁹

Section 30 removes any question that the Local Boundary Commission has legislative authority to adopt regulations providing standards and procedures for municipal incorporation and dissolution.¹⁰

Section 31 makes the following changes:

1. It repeals the requirement that a city council hold a public hearing on a proposed reclassification of the city.¹¹
2. It repeals the provision that allows a second class city with a population of at least 3,500 permanent residents and jurisdictional boundaries encompassing at least 35 square miles to adopt a home rule charter.¹²

⁸ This provision is identical to the provisions in 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)]

⁹ AS 29.10.080 presently requires a home rule municipal government to file a charter only upon its adoption. Current law requires no filing of amendments.

¹⁰ Superior Court Judge Michael A. Thompson ruled on June 7, 1993 (case No. 1JU-92-1126 CI), that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, Judge Thompson noted that courts need not give the same level of deference to interpretative regulations as it must give to legislative regulations.

¹¹ Section 2 of CSSB 164(JUD) requires the Local Boundary Commission to conduct such a hearing.

¹² The current law applies to only one of Alaska's 116 second class cities.

CS FOR SENATE BILL NO. 164(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/2/94

Referred: Rules

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, merger, consolidation,
2 annexation, detachment, and dissolution, and to municipal school districts."

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

4 * Section 1. AS 14.12.010 is amended to read:

5 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
6 districts of the state public school system are as follows:

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

9 (2) each organized borough is a borough school district;

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040(a) is amended to read:

13 (a) A second class city may be reclassified as a first class city. A first class
14 or home rule city may be reclassified as a second class city. Reclassification is

1 proposed by filing a petition with the department. The department shall
2 investigate the proposal and report its findings to the Local Boundary
3 Commission with its recommendations. The commission shall hold at least one
4 public hearing in the city on the proposal. If the commission determines that the
5 city meets the standards for incorporation under AS 29.05.011 for the class of city
6 proposed in the reclassification petition and that reclassification is in the best
7 interests of the state, it may accept or amend and accept the petition. If the
8 commission determines that the city does not meet the standards or that
9 reclassification is not in the best interests of the state, it shall reject the petition.
10 The commission shall notify the city of its decision. The decision may be appealed
11 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION
12 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST
13 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED
14 400 PERMANENT RESIDENTS].

15 * Sec. 3. AS 29.04.040(b) is amended to read:

16 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]
17 reclassification may be filed by [INITIATED IN TWO WAYS:]

18 (1) a number of voters equal to 15 percent of the number of votes cast
19 in the city at the preceding regular election [MAY FILE A PETITION WITH THE
20 COUNCIL]; or

21 (2) the council [MAY PROPOSE RECLASSIFICATION].

22 * Sec. 4. AS 29.04.040(d) is amended to read:

23 (d) The council shall, within 30 days after receiving notification from the
24 Local Boundary Commission that a petition has been accepted [ITS FINDINGS
25 HAVE BEEN MADE PUBLIC], order an election on the question of reclassification.
26 The election shall be held at least 30 days after the order and not later than the next
27 regular election occurring after the 30-day period. If more than one question is to be
28 voted on at the election, each shall appear separately on the ballot.

29 * Sec. 5. AS 29.04.040(e) is amended to read:

30 (e) The council shall certify the election results to the department. If the
31 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified

1 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

2 * Sec. 6. AS 29.05.011(a) is amended to read:

3 (a) A community that meets the following standards may incorporate as a first
4 class or home rule city:

5 (1) the community has 400 or more permanent residents;

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

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

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

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

17 * Sec. 7. AS 29.05.031(a) is amended to read:

18 (a) An area that meets the following standards may incorporate as a home rule,
19 first class, or second class borough, or as a unified municipality:

20 (1) the population of the area is interrelated and integrated as to its
21 social, cultural, and economic activities, and is large and stable enough to support
22 borough government;

23 (2) the boundaries of the proposed borough or unified municipality
24 conform generally to natural geography and include all areas necessary for full
25 development of municipal services;

26 (3) the economy of the area includes the human and financial resources
27 capable of providing municipal services; evaluation of an area's economy includes land
28 use, property values, total economic base, total personal income, resource and
29 commercial development, anticipated functions, expenses, and income of the proposed
30 borough or unified municipality;

31 (4) land, water, and air transportation facilities allow the

1 communication and exchange necessary for the development of integrated borough
2 government.

3 * Sec. 8. AS 29.05.060 is amended to read:

4 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a
5 petition with the department. The petition must [SHALL] include the following
6 information about the proposed municipality:

7 (1) class;

8 (2) name;

9 (3) boundaries;

10 (4) maps, documents, and other information required by the department;

11 (5) composition and apportionment of the governing body;

12 (6) a proposed operating budget for the municipality projecting sources
13 of income and items of expenditure through the first full fiscal year of operation;

14 (7) for a borough or unified municipality, based on the number who
15 voted in the respective areas in the last general election, the signature and resident
16 address of 15 percent of the voters in

17 (A) home rule and first class cities in the area of the proposed
18 borough or unified municipality; and

19 (B) the area of the proposed borough or unified municipality
20 outside home rule and first class cities;

21 (8) for a first class borough or unified municipality, a designation of
22 areawide powers to be exercised;

23 (9) for a second class borough, a designation of areawide and
24 nonareawide powers to be exercised;

25 (10) for a first class, [OR] second class, or home rule city, a
26 designation of the powers to be exercised;

27 (11) for a first class or home rule city, based on the number who voted
28 in the area in the last general election, the signatures and resident addresses of 50
29 voters in the proposed city or of 15 percent of the voters in the proposed city,
30 whichever is greater;

31 (12) for a second class city, based on the number who voted in the area

1 in the last general election, the signatures and resident addresses of 25 voters in the
2 proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

3 (13) for a home rule city, home rule borough, or unified municipality
4 a proposed home rule charter.

5 * Sec. 9. AS 29.05.100(a) is amended to read:

6 (a) If the Local Boundary Commission determines that a proposed municipality
7 fails to meet the standards for incorporation, it shall reject the petition. If the
8 commission determines that the proposed municipality meets the standards, it may
9 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES
10 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO
11 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the
12 petition.

13 * Sec. 10. AS 29.05.110(d) is amended to read:

14 (d) A home rule charter included in an incorporation petition under
15 AS 29.05.060(13) is considered to be part of the incorporation question. The home
16 rule charter is adopted if the voters approve incorporation of the city, borough, or
17 unified municipality.

18 * Sec. 11. AS 29.05.140 is amended by adding a new subsection to read:

19 (e) Upon incorporation, the home rule charter of a unified municipality
20 operates to dissolve all municipalities in the area unified in accordance with the
21 charter.

22 * Sec. 12. AS 29.05.190 is amended to read:

23 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
24 - UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
25 transition to borough government and to provide for interim governmental operations,
26 each borough or unified municipality incorporated after December 31, 1985, is
27 entitled to organization grants as follows:

28 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial
29 fiscal year;

30 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year;

31 and

1 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

2 (b) The department shall disburse the first organization grant to a borough or
3 unified municipality within 30 days after certification of the [INCORPORATION]
4 election favoring incorporation [OF A BOROUGH], or as soon after that as money is
5 appropriated and available for the purpose. The second grant shall be disbursed within
6 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,
7 or as soon after that as money is appropriated and available for the purpose. The third
8 grant shall be disbursed within 30 days after the beginning of the municipality's
9 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and
10 available for the purpose.

11 (c) This section does not apply to a borough incorporated by consolidation or
12 to a unified municipality that occupies the area formerly occupied by a borough.

13 * Sec. 13. AS 29.05.210 is amended to read:

14 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND
15 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of incorporation
16 of a borough or unified municipality incorporated after December 31, 1985, the
17 department shall determine the population of the borough or unified municipality.

18 (b) The department shall provide assistance to each borough and unified
19 municipality incorporated after December 31, 1985, in

20 (1) establishing the initial sales and use tax assessment and collection
21 department if the borough or unified municipality has adopted a sales or use tax;

22 (2) determining the initial property tax assessment roll if the borough
23 or unified municipality has adopted a property tax, including contracting for
24 appraisals of property needed to complete the initial assessment.

25 (c) This section does not apply to a borough incorporated by consolidation or
26 to a unified municipality that occupies the area formerly occupied by a borough.

27 * Sec. 14. AS 29.06.040(a) is amended to read:

28 (a) The Local Boundary Commission may consider any proposed municipal
29 boundary change. It may reject the proposed change, accept the proposed change, or
30 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A
31 Local Boundary Commission decision under this subsection may be appealed under

1 AS 44.62 (Administrative Procedure Act).

2 * Sec. 15. AS 29.06.090(a) is amended to read:

3 (a) Two or more municipalities may merge or consolidate to form a single
4 general law or home rule municipality, except a third class borough may not be
5 formed through merger or consolidation.

6 * Sec. 16. AS 29.06.100(b) is amended to read:

7 (b) The petition includes

8 (1) the name and class of each existing municipality;

9 (2) the name and class of the proposed municipality;

10 (3) the proposed composition and apportionment of the governing body;

11 (4) maps, documents, and other information that shows that the
12 proposed municipality meets the standards for municipal incorporation;

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

14 * Sec. 17. AS 29.06.130(a) is amended to read:

15 (a) If the Local Boundary Commission determines that the proposed
16 municipality fails to meet the standards for incorporation, it shall reject the merger or
17 consolidation petition. If the commission determines that the proposed municipality
18 meets these standards, it may [SHALL] accept the petition or amend [. IF THE
19 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE
20 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE
21 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and
22 accept the petition.

23 * Sec. 18. AS 29.06.140(b) is amended to read:

24 (b) A home rule charter in a merger or consolidation petition submitted
25 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The
26 charter is adopted if the voters approve the merger or consolidation. The director
27 of elections shall supervise the election in the general manner prescribed by AS 15
28 (Election Code). The state shall pay all election costs.

29 * Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:

30 (b) An area that is not incorporated as a borough, including any cities in the
31 area, may incorporate as a unified municipality under AS 29.05.031.

1 * Sec. 20. AS 29.06.470(a) is amended to read:

2 (a) Except as provided in (b) of this section, voters of a municipality may
3 petition for dissolution when the municipality is free of debt, or, if in debt, each of its
4 creditors is satisfied with a method of repayment and

5 (1) the municipality no longer meets the minimum standards prescribed
6 for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

7 (2) the municipality ceases to use each of its mandatory powers; or

8 (3) the dissolution petition filed under AS 29.06.460 is signed by a
9 number of voters of the municipality proposed to be dissolved greater than 50 percent
10 of the number of votes cast in the last regular [GENERAL] election in that
11 municipality.

12 * Sec. 21. AS 29.06.500(a) is amended to read:

13 (a) If the Local Boundary Commission determines that a municipality fails to
14 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION
15 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER
16 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the
17 commission determines that the petition meets the standards under AS 29.06.470(a)(1),
18 (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of the municipality is in the best
19 interest of the state, it shall accept the petition. The commission may amend the
20 proposal and accept the petition.

21 * Sec. 22. AS 29.06.520 is amended to read:

22 Sec. 29.06.520. SUCCESSION [TO ASSETS AND LIABILITIES]. A
23 municipality succeeding to a dissolved municipality succeeds to all rights, powers,
24 duties, assets, and liabilities of the dissolved municipality. Otherwise, the state
25 succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds
26 to a dissolved municipality, the state may enter into a contract for the performance of
27 duties or powers in the area of the dissolved municipality. However, a contract with
28 an organization for the performance of duties or powers entered into under this section
29 does not constitute recognition by the state of governmental powers of that
30 organization.

31 * Sec. 23. AS 29.10.010(c) is amended to read:

1 (c) At an incorporation, merger, or consolidation election a municipality
2 [FOR BOROUGH INCORPORATION, AN AREA IN THE UNORGANIZED
3 BOROUGH] may adopt a charter for its own government and incorporate, merge, or
4 consolidate as a home rule city, borough, or unified municipality.

5 * Sec. 24. AS 29.10.010(f) is amended to read:

6 (f) The proposed charter for a home rule municipality to be formed by
7 incorporation, merger, or consolidation [AN AREA OF THE UNORGANIZED
8 BOROUGH] shall be prepared by the petitioners and filed [UNDER AS 29.05.060]
9 with the petition to incorporate, merge, or consolidate a home rule city, borough, or
10 unified municipality.

11 * Sec. 25. AS 29.10.020 is amended to read:

12 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least
13 one model home rule charter for a city, borough, and unified municipality. The
14 model charters [CHAPTER] shall be made available to persons interested in filing a
15 petition to form [INCORPORATE] a home rule municipality [BOROUGH] under
16 AS 29.05.060 or AS 29.06.090.

17 * Sec. 26. AS 29.10.070 is amended to read:

18 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for
19 an existing municipality shall be submitted to the voters at an election held not less
20 than 30 days or more than 90 days after the proposed charter is published. The
21 proposed home rule charter for a home rule municipality to be formed by
22 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED
23 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held
24 under AS 29.05.110 or AS 29.06.140.

25 * Sec. 27. AS 29.10.080(a) is amended to read:

26 (a) If a majority of those voting in an existing municipality favor the proposed
27 charter or if a majority of those voting to form a home rule municipality by
28 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED
29 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE
30 BOROUGH], the proposed charter becomes the organic law of the municipality
31 effective on the date the election is certified. Thereafter, a court shall take judicial

1 notice of the charter. The new home rule municipality shall file the indicated number
2 of copies of the charter with

- 3 (1) the lieutenant governor - two copies;
- 4 (2) the department - two copies;
- 5 (3) the district recorder - one copy;
- 6 (4) the municipal clerk - one copy.

7 * Sec. 28. AS 29.10.090(b) is amended to read:

8 (b) If incorporation, merger, or consolidation of a home rule municipality
9 [BOROUGH] is rejected by the voters [IN AN AREA IN THE UNORGANIZED
10 BOROUGH], the proposed charter is rejected.

11 * Sec. 29. AS 29.10.100 is amended by adding a new subsection to read:

12 (c) If a charter is amended, the municipality shall file the indicated number of
13 copies of the revised charter with

- 14 (1) the lieutenant governor - two copies;
- 15 (2) the department - two copies;
- 16 (3) the district recorder - one copy;
- 17 (4) the municipal clerk - one copy.

18 * Sec. 30. AS 44.47.567(a) is amended to read:

19 (a) The local boundary commission shall

20 (1) make studies of local government boundary problems;
21 (2) adopt regulations providing [DEVELOP PROPOSED] standards
22 and procedures for municipal incorporation, annexation, detachment, merger,
23 consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY
24 LINES];

25 (3) consider a local government boundary change requested of it by the
26 legislature, the commissioner of community and regional affairs, or a political
27 subdivision of the state; and

28 (4) develop standards and procedures for the extension of services and
29 ordinances of incorporated cities into contiguous areas for limited purposes upon
30 majority approval of the voters of the contiguous area to be annexed and prepare
31 transition schedules and prorated tax mill levies as well as standards for participation

1 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
2 services.

3 * Sec. 31. AS 29.04.040(c) and AS 29.10.010(b) are repealed.

THE
FOLLOWING
DOCUMENTS
ARE
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ORIGINAL
COPIES

However, the actions taken by the department are ad-
only. AS 29.18.080(a).

When the Local Boundary Commission acts on the incor-
poration petition, it is exercising delegated legislative author-
ity. Mobil Oil, 518 P.2d ac 99. The legislature has provided
full power to the Local Boundary Commission to resolve the ques-
tion of which corporate name should become the official name of
the new city. The commission must accept this responsibility and
carry out its charge to objectively decide if incorporation of a
locality is in the best interests of the state and under what
conditions the incorporation petition should be accepted. Per-
sons residing in the locality will be able to express their sen-
timents concerning the municipal name at the public hearing re-
quired by AS 29.18.050(b).

If, after incorporation, residents are not satisfied
with the commission's decision, a procedure is established by law
for the change of corporate name. AS 29.73.050.

JLB/pjg

Sec. 33. The "governing body" which is to direct community work service in an established village is not presently defined. In the May 29, 1986 bill review by the Attorney General's Office of the existing language, the lack of a definition was noted and the proposed language suggested. A body traditionally performing public functions for the community could include the entity designated to receive and disburse revenue-sharing funds under AS 29.60.140 or the entity designated to administer Village Sale Water Facilities under AS 46.07.010, et seq.

Secs. 34 - 39. Language governing sanctions for violation of a ban on possession has been conformed to the new local option provisions.

Sec. 40. AS 04.21.010 addressing municipal regulation has been conformed to the new local option provisions. Additionally, municipalities are given the authority to adopt ordinances limiting the monthly amount a person can import.

Secs. 41 - 42. Language has been conformed to the new local option provisions.

Sec. 43. The perimeter of an established village had not been defined in the existing statutes, although the various local option prohibitions apply within the perimeter. This definition provides that the perimeter can be no larger than 10 miles in diameter and requires the perimeter to be clearly designated on a map.

Secs. 44 - 49. Language has been conformed to the new local option provisions.

Sec. 50. This section sets out the repealed provisions, which are all of the existing local option laws at AS 04.11.490 - 04.11.506 and 04.11.510(d) and the community license designation under AS 04.11.190.

Sec. 51. Local options adopted under existing and prior local option laws are continued in effect.

Sec. 52. Community liquor licenses are converted to their appropriate counterpart.

Sec. 53. The effective date is set for July 1, 1994 in order to provide a definite date for implementation by municipalities and established villages and enforcement by law enforcement officers.

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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APR 14 1993

April 13, 1993

The Honorable Randy Phillips
Chair
Senate Committee on Community
and Regional Affairs
State Capitol
Juneau, AK 99811

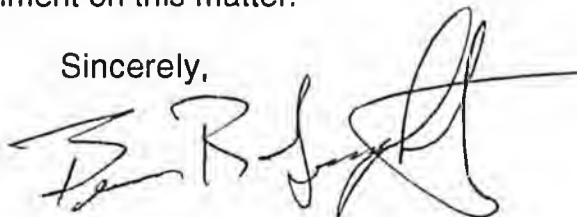
Dear Senator Phillips:

This is to follow up on this morning's hearing before your Committee on draft CSSB 164. The Department supports the draft, but encourages the Committee to consider the following minor technical points.

- 1) Although the bill addresses annexation, detachment, merger and consolidation, the title of the bill makes no reference to those topics. Perhaps the title should be amended to include those terms.
- 2) Because AS 29.04.040 would be amended to allow reclassification of first class and home rule cities, it appears that the title of that section should be amended accordingly. Currently, the title only makes reference to reclassification of second class cities.
- 3) The use of the word "shall" in line 19 Section 21 of the bill appears to be inconsistent with other provisions of CSSB 164. The apparent inconsistency could be corrected by substituting the word "may".

Finally, enclosed is a fiscal note on CSSB 164 indicating no fiscal impact. Thank you for the opportunity to comment on this matter.

Sincerely,



Bruce Geraghty
Deputy Commissioner

Enclosure: fiscal note - CSSB 164

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April 7, 1994

The Honorable Mike Miller
Senator - District Q
State Capitol, Room 423
Juneau, Alaska 99801-1182

RE: CSSB 164(JUD)

Dear Senator Miller:

This is to urge your support for CSSB 164(JUD). The bill serves the needs of many communities in Alaska and promotes better local government.

Consider, for example, the pending petitions to create the North Pole Borough by detaching territory from the Fairbanks North Star Borough. While CSSB 164(JUD) will not alter the criteria upon which those petitions will be judged, it will resolve technical questions that exist with respect to those petitions — and nearly all other petitions that come before the Local Boundary Commission.

We have not yet completed our review of the 670 pages that make up the North Pole petitions. However, we have determined at this point that the proposed North Pole Borough Assembly Apportionment Plan appears to violate presumptive standards concerning both Alaska's equal protection clause and the federal equal protection clause.

Courts have generally held that deviations exceeding 10% in the apportionment of elected representatives among districts are presumed to violate those provisions, unless the districts were based upon legitimate considerations necessary to implement a rational policy. It appears that the deviations in the North Pole Apportionment Plan are on the order of 33% — more than 3 times the presumptive maximum allowed deviation.

The Honorable Mike Miller
April 7, 1994 — Page Two

If the North Pole Borough Assembly Apportionment Plan is indeed improper, the proposed home rule charter included with the petitions must be amended. We believe, based upon advice from the Department of Law, that the Local Boundary Commission has broad implicit constitutional authority to amend petitions. However, the Commission's explicit statutory authority to amend an incorporation petition is limited only to boundaries (see AS 29.05.100).

A case is presently pending before the Alaska Supreme Court (Case No. 1JU-92-1226 CI — Supreme Court No. S5760) which addresses the question whether the Local Boundary Commission's broad constitutional powers under Article X, § 12 are limited to annexations and detachments, or whether they extend to incorporations. If the court finds the former, we will be forced to reexamine our conclusions with respect to the Commission's authority to amend an incorporation petition. However, CSSB 164(JUD) will resolve the question by expressly providing broad authority for the Commission to amend any petition that comes before it.

The example deals with but one aspect of the bill. Other similarly critical technical amendments to laws concerning municipal incorporation, dissolution, annexation, detachment, merger, consolidation and reclassification are addressed by the bill. We have prepared two pages of (far less detailed) examples of the manner in which the bill benefits interests of communities from Ketchikan to St. Mary's. We have also prepared a one-page summary of the effects of the bill and a three-page sectional analysis. If you would like copies of these materials, please advise me.

In closing, I wish to stress that passage of CSSB 164(JUD) will neither increase nor decrease the likelihood that the North Pole petitions will be approved. It will however, eliminate technical concerns that have already arisen regarding the petitions and which typically arise in many petitions that come before the Commission. Again, I urge your support of CSSB 164(JUD).

Cordially,



Robert K. Walsh
Director

cc: Senator Rick Halford
Senator Robin Taylor
Senator Randy Phillips
Darroll Hargraves, Chairman, Local Boundary Commission
Edgar Blatchford, Commissioner, Dept. of Community & Regional Affairs

WALTER J. HICKEL, GOVERNOR

LOCAL BOUNDARY COMMISSION333 W. 4TH AVE., SUITE 220
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April 6, 1994

The Honorable Rick Halford
President of the Alaska Senate &
Chairman of the Senate Rules Committee
State Capitol, Room 111
Juneau, Alaska 99801-1182

RE: CSSB 164(JUD)

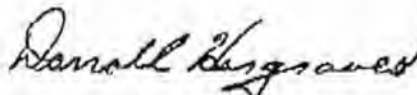
Dear Senator Halford:

As we discussed, CSSB 164(JUD) serves the needs of many communities in Alaska and promotes better local government. The Local Boundary Commission considers this legislation to be vital to the performance of our duties. The bill makes important technical amendments to laws concerning municipal incorporation, dissolution, annexation, detachment, merger, consolidation and reclassification.

I understand that a one-page summary of the effects of the bill and a three-page sectional analysis were provided to you previously by Senator Phillips. I have attached for your further information, specific examples of the manner in which the bill serves Alaskans and promotes better local government.

I appreciate your support for this bill. It is important that CSSB 164(JUD) be passed out of the Rules Committee and the Senate in a timely manner in order that the House may also act on the bill this session.

Cordially,



Darroll Hargraves
Chairman

attachment: examples of the manner in which CSSB 164(JUD) serves Alaskans and promotes better local government

cc: Robert Walsh, Director, Municipal and Regional Assistance Division.

EXAMPLES OF THE MANNER IN WHICH CSSB 164(JUD) SERVES ALASKANS
AND PROMOTES BETTER LOCAL GOVERNMENT

CSSB 164(JUD) serves the needs of many communities throughout Alaska. It is also promotes the interests of the State of Alaska. The following cites specific examples of the manner in which the bill serves these needs and interests.

- ❖ Residents or officials of Dillingham, St. Mary's and Galena have expressed interest in reclassifying their cities to cities of the second class. Under current law, such can only occur by initially dissolving the first class city and incorporating a new second class city - a relatively lengthy and expensive process. CSSB 164(JUD) allows direct reclassification of first class or home rule cities to second class cities.
- ❖ Residents of Nikiski have expressed interest in incorporating a home rule city. Current law does not allow such, although direct incorporation of home rule boroughs has been allowed since 1985. Under current law, Nikiski residents would be required first to incorporate a general law city and then adopt a home rule charter - a lengthy process. CSSB 164(JUD) allows direct incorporation of home rule cities.
- ❖ While not necessarily favoring borough formation at this time, residents of many unorganized areas of the state, including those in the Delta Greely Region and Copper River Basin have expressed support for the option of incorporating a unified municipality. A unified local government would avoid having multiple municipal governments within a single region. CSSB 164(JUD) permits direct incorporation of unified municipalities.
- ❖ Residents or officials of the Northwest Arctic Borough, Ketchikan Gateway Borough and Fairbanks North Star Borough are exploring the consolidation of certain cities in each of those areas with the region's borough government. CSSB 164(JUD) removes any question that home rule municipal governments could be formed through consolidation.
- ❖ Officials of the City of Ketchikan recognize that a complex municipal boundary proposal (such as their prospective consolidation proposal) would likely require amendment at some point in the proceedings. Thus, those officials have stressed the need to ensure that the Local Boundary Commission has broad authority to amend petitions that come before it. CSSB 164(JUD) accommodates that interest.
- ❖ The bill confirms that the Local Boundary Commission has discretion when acting upon petitions that come before it. Currently, the statutes expressly provide such discretion only in the case of annexation and detachment. The lack of

Examples of Benefits of CSSB 164(JUD)

Page Two

express discretion with respect to dissolution, incorporation, merger and consolidation may result in approval of a petition that is not in the State's best interest. For example, it is interpreted by some that the Commission would have no choice under current law but to approve a proposal presently being contemplated to dissolve the City of Seldovia. It is claimed that the Commission would be compelled to approve the proposal even if the Kenai Peninsula Borough chose not to act as the dissolved city's successor. In that event, the State would be burdened with the duty of being the successor.

- ❖ The bill provides State oversight concerning municipal reclassification. The State has legitimate interests in any city reclassification, particularly in the reclassification of a second class city in the Unorganized Borough. Such automatically creates a new municipal school district that will almost certainly have significant regional and statewide effects. There are presently 27 second class cities in the Unorganized Borough that could unilaterally reclassify as first class cities under current law. The communities of Kwethluk and Fort Yukon are reportedly examining the option.
- ❖ The bill confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution. A superior court judge recently ruled that the Commission has such authority in the case of annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

In addition to providing examples of what the bill will accomplish, it is important to note what the bill will not do. Several members of the Legislature have raised questions concerning how CSSB 164(JUD) would affect pending petitions to detach more than 5,000 square miles from the Fairbanks North Star Borough and to incorporate a North Pole Borough encompassing more than 9,000 square miles.

CSSB 164(JUD) will have no effect whatsoever on decisions to be rendered by the Local Boundary Commission regarding those petitions. Criteria upon which these petitions will be judged are not affected in any way by CSSB 164(JUD). The detachment petition will be reviewed using standards that include those in Article X, Sections 1 and 3 of Alaska's Constitution; and 19 AAC 10.270. The North Pole Borough incorporation petition will be reviewed using the previously noted Constitutional provisions, plus the standards set out in AS 29.05.031 and 19 AAC 10.045 - 19 AAC 10.060.

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

WALTER J. HICKEL, GOVERNOR

333 W. 4TH AVE., SUITE 220
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(907) 269-4500

April 18, 1994

The Honorable Steve Rieger
Senator
State Capitol, Room 516
Juneau, Alaska 99801-1182

RE: CSSB 164(JUD)

Dear Senator Rieger:

Thank you for taking the time to meet with the Department of Community and Regional Affairs staff and with me on Friday concerning SB 164. I offer the following brief recap of that meeting.

Consolidation of Service Areas. We expressed to you that neither current law nor SB 164 provide the Local Boundary Commission (LBC) with authority to consolidate municipal service areas. In the context of the LBC, "consolidation" is defined by AS 29.71.800(6) to mean "*dissolution of two or more municipalities and their incorporation as a new municipality.*"

Charter Amendment. Department staff assured you that the LBC has no authority under current law or SB 164 to amend the Charter of the Municipality of Anchorage.

Amendment of Petitions. We indicated that it is inconceivable that the LBC would, under the provisions of SB 164, amend a petition to alter its basic purpose (e.g., turn a petition to detach one community into a petition to annex another.) After we met with you, we consulted Assistant Attorney General Barbara Blasco on this issue. She advised that it is not a reasonable construction of SB 164 to conclude that the bill would permit the LBC to act in that fashion. The language on the amendment of petitions must be read in context. SB 164 simply confirms and clarifies the understanding of the LBC's present authority to amend petitions.

Detachment Issues. You expressed interest in a possible amendment of SB 164 to facilitate detachment from a borough in cases where the detached area would become part of another organized borough. Given the pending proposal to form the North Pole Borough, we believe that any proposal to add such provisions to the bill could generate intense opposition from Fairbanks Legislators and others. The bill is neutral on this point and we urge you to keep it that way.

The Honorable Steve Rieger
April 18, 1994
Page Two


However, we did advise you that we recognize that the establishment and alteration of municipal boundaries is a legislative function which, in Alaska, has been delegated to the LBC by the constitution and statutes. It is fitting that the LBC solicit and consider legislative preferences regarding such matters. Further, the LBC may formally involve the legislature in the consideration of municipal boundary changes under the provisions of Article X, §12 of the Constitution.

Bill Title. You indicated that you may wish to amend the title of the bill. In keeping with our strong desire for timely action, we encourage you to alter the title of the bill only if it can be accomplished in the next few hours, perhaps in the Senate Rules Committee.

After consulting with the leadership of the House, we are concerned that unless SB 164 is passed by the Senate this week, the House will not have sufficient time to consider the proposal. In light of our assurances and the views of the Department of Law, we urge you to pass the bill out of the Rules Committee in a timely manner to allow consideration by the House.

If you wish to discuss any of these points, please contact me.

Cordially,


Darroll Hargraves
Chairman

cc: Rick Halford, President of the Senate
Ramona Barnes, Speaker of the House
Senator Robin Taylor
Senator Randy Phillips
Representative Gail Phillips
Representative Harley Olberg
Representative Carl Moses
Local Boundary Commission members
Edgar Blatchford, Commissioner, DCRA
Robert Walsh, Director, MRAD
Barbara Blasco, Assistant AG



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
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MEMORANDUM

TO: Representative Harley Olberg, Chairman
House Community and Regional Affairs Committee

FROM: Senator Randy Phillips, Chairman ^{REP}
Senate Community and Regional Affairs Committee

DATE: April 26, 1994

SUBJECT: SB 164 - Municipal Incorporation/Reclassification/
Dissolution

This bill was introduced at the request of the Alaska Local Boundary Commission. SB 164 cleans up some problem areas for the commission and resolves some other issues.

Attached is a copy of a summary analysis and sectional analysis provided by the Department of Community and Regional Affairs.

I urge your favorable consideration on Senate Bill 164.

Attachments

Title Change in Sen(RLS)

No. 2

Bill Version: CSRB 164 (Jud)

(S) Publish Date: 3-2-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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BILL: SB 164 SHORT TITLE: MUN INCORP/RECLASSIFICATION/DISSOLUTION
BILL VERSION: CSSB 164(RLS)
SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

CURRENT STATUS: (H) CRA

STATUS DATE: 04/22/94

HEARING: (H) CRA APR 26 01:00 PM

TITLE: "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 BOROUGH 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."

03/16/93	825	(S)	READ THE FIRST TIME - REFERRAL(S)
03/16/93	826	(S)	CRA, JUDICIARY
04/26/93	1758	(S)	CRA RPT CS 2DP 2NR NEW TITLE
04/26/93	1758	(S)	ZERO FISCAL NOTE TO SB & CS (DCRA)
03/02/94	3026	(S)	JUD RPT CS 1DP 3NR NEW TITLE
03/02/94	3026	(S)	ZERO FN TO CS PUBLISHED (DCRA)
04/20/94	3807	(S)	RLS RPT CS 4DP & CALENDAR 4/20/94
04/20/94	3808	(S)	PREVIOUS ZERO FN APPLIES TO CS
04/20/94	3811	(S)	READ THE SECOND TIME
04/20/94	3811	(S)	RLS CS ADOPTED UNAN CONSENT
04/20/94	3812	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/20/94	3812	(S)	READ THE THIRD TIME CSSB 164(RLS)
04/20/94	3813	(S)	PASSED Y16 N2 E2
04/20/94	3824	(S)	TRANSMITTED TO (H)
04/22/94	3659	(H)	READ THE FIRST TIME - REFERRAL(S)
04/22/94	3660	(H)	COMMUNITY & REGIONAL AFFAIRS

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
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."

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."]*

CS FOR SENATE BILL NO. 164(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/20/94
 Referred: Today's Calendar

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

1 procedures for municipal incorporation, annexation, detachment, merger,
2 consolidation, reclassification, and dissolution."

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

4 * Section 1. AS 14.12.010 is amended to read:

5 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
6 districts of the state public school system are as follows:

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

9 (2) each organized borough is a borough school district;

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040(a) is amended to read:

13 (a) A second class city may be reclassified as a first class city. A first class
14 or home rule city may be reclassified as a second class city. Reclassification is
15 proposed by filing a petition with the department. The department shall
16 investigate the proposal and report its findings to the Local Boundary
17 Commission with its recommendations. The commission shall hold at least one
18 public hearing in the city on the proposal. If the commission determines that the
19 city meets the standards for incorporation under AS 29.05.011 for the class of city
20 proposed in the reclassification petition and that reclassification is in the best
21 interests of the state, it may accept or amend and accept the petition. If the
22 commission determines that the city does not meet the standards or that
23 reclassification is not in the best interests of the state, it shall reject the petition.
24 The commission shall notify the city of its decision. The decision may be appealed
25 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION
26 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST
27 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED
28 400 PERMANENT RESIDENTS].

29 * Sec. 3. AS 29.04.040(b) is amended to read:

30 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]

1 reclassification may be filed by [INITIATED IN TWO WAYS:]

2 (1) a number of voters equal to 15 percent of the number of votes cast
3 in the city at the preceding regular election [MAY FILE A PETITION WITH THE
4 COUNCIL]; or

5 (2) the council [MAY PROPOSE RECLASSIFICATION].

6 * Sec. 4. AS 29.04.040(d) is amended to read:

7 (d) The council shall, within 30 days after receiving notification from the
8 Local Boundary Commission that a petition has been accepted [ITS FINDINGS
9 HAVE BEEN MADE PUBLIC], order an election on the question of reclassification.
10 The election shall be held at least 30 days after the order and not later than the next
11 regular election occurring after the 30-day period. If more than one question is to be
12 voted on at the election, each shall appear separately on the ballot.

13 * Sec. 5. AS 29.04.040(e) is amended to read:

14 (e) The council shall certify the election results to the department. If the
15 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified
16 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

17 * Sec. 6. AS 29.05.011(a) is amended to read:

18 (a) A community that meets the following standards may incorporate as a first
19 class or home rule city:

20 (1) the community has 400 or more permanent residents;

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

23 (3) the economy of the community includes the human and financial
24 resources necessary to provide municipal services; in considering the economy of the
25 community, the Local Boundary Commission shall consider property values, economic
26 base, personal income, resource and commercial development, anticipated functions,
27 and the expenses and income of the proposed city, including the ability of the
28 community to generate local revenue;

29 (4) the population of the community is stable enough to support city
30 government;

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

1 * Sec. 7. AS 29.05.031(a) is amended to read:

2 (a) An area that meets the following standards may incorporate as a home rule,
3 first class, or second class borough, or as a unified municipality:

4 (1) the population of the area is interrelated and integrated as to its
5 social, cultural, and economic activities, and is large and stable enough to support
6 borough government;

7 (2) the boundaries of the proposed borough or unified municipality
8 conform generally to natural geography and include all areas necessary for full
9 development of municipal services;

10 (3) the economy of the area includes the human and financial resources
11 capable of providing municipal services; evaluation of an area's economy includes land
12 use, property values, total economic base, total personal income, resource and
13 commercial development, anticipated functions, expenses, and income of the proposed
14 borough or unified municipality;

15 (4) land, water, and air transportation facilities allow the
16 communication and exchange necessary for the development of integrated borough
17 government.

18 * Sec. 8. AS 29.05.060 is amended to read:

19 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a
20 petition with the department. The petition must [SHALL] include the following
21 information about the proposed municipality:

22 (1) class;

23 (2) name;

24 (3) boundaries;

25 (4) maps, documents, and other information required by the department;

26 (5) composition and apportionment of the governing body;

27 (6) a proposed operating budget for the municipality projecting sources
28 of income and items of expenditure through the first full fiscal year of operation;

29 (7) for a borough or unified municipality, based on the number who
30 voted in the respective areas in the last general election, the signature and resident
31 address of 15 percent of the voters in

1 (A) home rule and first class cities in the area of the proposed
2 borough or unified municipality; and

3 (B) the area of the proposed borough or unified municipality
4 outside home rule and first class cities;

5 (8) for a first class borough or unified municipality, a designation of
6 areawide powers to be exercised:

7 (9) for a second class borough, a designation of areawide and
8 nonareawide powers to be exercised;

9 (10) for a first class, [OR] second class, or home rule city, a
10 designation of the powers to be exercised;

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

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

18 (13) for a home rule city, home rule borough, or unified municipality
19 a proposed home rule charter.

20 * Sec. 9. AS 29.05.100(a) is amended to read:

21 (a) If the Local Boundary Commission determines that a proposed municipality
22 fails to meet the standards for incorporation, it shall reject the petition. If the
23 commission determines that the proposed municipality meets the standards, it may
24 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES
25 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO
26 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the
27 petition.

28 * Sec. 10. AS 29.05.110(d) is amended to read:

29 (d) A home rule charter included in an incorporation petition under
30 AS 29.05.060(13) is considered to be part of the incorporation question. The home
31 rule charter is adopted if the voters approve incorporation of the city, borough, or

1 unified municipality.

2 * Sec. 11. AS 29.05.140 is amended by adding a new subsection to read:

3 (e) Upon incorporation, the home rule charter of a unified municipality
4 operates to dissolve all municipalities in the area unified in accordance with the
5 charter.

6 * Sec. 12. AS 29.05.190 is amended to read:

7 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
8 UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
9 transition to borough government and to provide for interim governmental operations,
10 each borough or unified municipality incorporated after December 31, 1985, is
11 entitled to organization grants as follows:

12 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial
13 fiscal year;

14 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year;
15 and

16 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

17 (b) The department shall disburse the first organization grant to a borough or
18 unified municipality within 30 days after certification of the [INCORPORATION]
19 election favoring incorporation [OF A BOROUGH], or as soon after that as money is
20 appropriated and available for the purpose. The second grant shall be disbursed within
21 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,
22 or as soon after that as money is appropriated and available for the purpose. The third
23 grant shall be disbursed within 30 days after the beginning of the municipality's
24 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and
25 available for the purpose.

26 (c) This section does not apply to a borough incorporated by consolidation or
27 to a unified municipality that occupies the area formerly occupied by a borough

28 * Sec. 13. AS 29.05.210 is amended to read:

29 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND
30 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of incorporation
31 of a borough or unified municipality incorporated after December 31, 1985, the

1 department shall determine the population of the borough or unified municipality.

2 (b) The department shall provide assistance to each borough and unified
3 municipality incorporated after December 31, 1985, in

4 (1) establishing the initial sales and use tax assessment and collection
5 department if the borough or unified municipality has adopted a sales or use tax;

6 (2) determining the initial property tax assessment roll if the borough
7 or unified municipality has adopted a property tax, including contracting for
8 appraisals of property needed to complete the initial assessment.

9 (c) This section does not apply to a borough incorporated by consolidation or
10 to a unified municipality that occupies the area formerly occupied by a borough.

11 * Sec. 14. AS 29.06.040(a) is amended to read:

12 (a) The Local Boundary Commission may consider any proposed municipal
13 boundary change. It may reject the proposed change, accept the proposed change, or
14 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A
15 Local Boundary Commission decision under this subsection may be appealed under
16 AS 44.62 (Administrative Procedure Act).

17 * Sec. 15. AS 29.06.090(a) is amended to read:

18 (a) Two or more municipalities may merge or consolidate to form a single
19 general law or home rule municipality, except a third class borough may not be
20 formed through merger or consolidation.

21 * Sec. 16. As 29.06.100(b) is amended to read:

22 (b) The petition includes

23 (1) the name and class of each existing municipality;

24 (2) the name and class of the proposed municipality;

25 (3) the proposed composition and apportionment of the governing body;

26 (4) maps, documents, and other information that shows that the
27 proposed municipality meets the standards for municipal incorporation;

28 (5) for a home rule municipality, a proposed home rule charter.

29 * Sec. 17. AS 29.06.130(a) is amended to read:

30 (a) If the Local Boundary Commission determines that the proposed
31 municipality fails to meet the standards for incorporation, it shall reject the merger or

1 consolidation petition. If the commission determines that the proposed municipality
2 meets these standards, it may [SHALL] accept the petition or amend [. IF THE
3 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE
4 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE
5 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and
6 accept the petition.

7 * Sec. 18. AS 29.06.140(b) is amended to read:

8 (b) A home rule charter in a merger or consolidation petition submitted
9 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The
10 charter is adopted if the voters approve the merger or consolidation. The director
11 of elections shall supervise the election in the general manner prescribed by AS 15
12 (Election Code). The state shall pay all election costs.

13 * Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:

14 (b) An area that is not incorporated as a borough, including any cities in the
15 area, may incorporate as a unified municipality under AS 29.05.031.

16 * Sec. 20. AS 29.06.470(a) is amended to read:

17 (a) Except as provided in (b) of this section, voters of a municipality may
18 petition for dissolution when the municipality is free of debt, or, if in debt, each of its
19 creditors is satisfied with a method of repayment and

20 (1) the municipality no longer meets the minimum standards prescribed
21 for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

22 (2) the municipality ceases to use each of its mandatory powers; or

23 (3) the dissolution petition filed under AS 29.06.460 is signed by a
24 number of voters of the municipality proposed to be dissolved greater than 50 percent
25 of the number of votes cast in the last regular [GENERAL] election in that
26 municipality.

27 * Sec. 21. AS 29.06.500(a) is amended to read:

28 (a) If the Local Boundary Commission determines that a municipality fails to
29 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION
30 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER
31 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the

1 commission determines that the petition meets the standards under AS 29.06.470(a)(1),
2 (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of the municipality is in the best
3 interest of the state, it shall accept the petition. The commission may amend the
4 proposal and accept the petition.

5 * Sec. 22. AS 29.06.520 is amended to read:

6 Sec. 29.06.520. SUCCESSION [TO ASSETS AND LIABILITIES]. A
7 municipality succeeding to a dissolved municipality succeeds to all rights, powers,
8 duties, assets, and liabilities of the dissolved municipality. Otherwise, the state
9 succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds
10 to a dissolved municipality, the state may enter into a contract for the performance of
11 duties or powers in the area of the dissolved municipality. However, a contract with
12 an organization for the performance of duties or powers entered into under this section
13 does not constitute recognition by the state of governmental powers of that
14 organization.

15 * Sec. 23. AS 29.10.010(c) is amended to read:

16 (c) At an incorporation, merger, or consolidation election a municipality
17 [FOR BOROUGH INCORPORATION, AN AREA IN THE UNORGANIZED
18 BOROUGH] may adopt a charter for its own government and incorporate, merge, or
19 consolidate as a home rule city, borough, or unified municipality.

20 * Sec. 24. AS 29.10.010(f) is amended to read:

21 (f) The proposed charter for a home rule municipality to be formed by
22 incorporation, merger, or consolidation [AN AREA OF THE UNORGANIZED
23 BOROUGH] shall be prepared by the petitioners and filed [UNDER AS 29.05.060]
24 with the petition to incorporate, merge, or consolidate a home rule city, borough, or
25 unified municipality.

26 * Sec. 25. AS 29.10.020 is amended to read:

27 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least
28 one model home rule charter for a city, borough, and unified municipality. The
29 model charters [CHARTER] shall be made available to persons interested in filing a
30 petition to form [INCORPORATE] a home rule municipality [BOROUGH] under
31 AS 29.05.060 or AS 29.06.090.

1 * Sec. 26. AS 29.10.070 is amended to read:

2 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for
3 an existing municipality shall be submitted to the voters at an election held not less
4 than 30 days or more than 90 days after the proposed charter is published. The
5 proposed home rule charter for a home rule municipality to be formed by
6 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED
7 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held
8 under AS 29.05.110 or AS 29.06.140.

9 * Sec. 27. AS 29.10.080(a) is amended to read:

10 (a) If a majority of those voting in an existing municipality favor the proposed
11 charter or if a majority of those voting to form a home rule municipality by
12 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED
13 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE
14 BOROUGH], the proposed charter becomes the organic law of the municipality
15 effective on the date the election is certified. Thereafter, a court shall take judicial
16 notice of the charter. The new home rule municipality shall file the indicated number
17 of copies of the charter with

18 (1) the lieutenant governor - two copies;

19 (2) the department - two copies;

20 (3) the district recorder - one copy;

21 (4) the municipal clerk - one copy.

22 * Sec. 28. AS 29.10.090(b) is amended to read:

23 (b) If incorporation, merger, or consolidation of a home rule municipality
24 [BOROUGH] is rejected by the voters [IN AN AREA IN THE UNORGANIZED
25 BOROUGH], the proposed charter is rejected.

26 * Sec. 29. AS 29.10.100 is amended by adding a new subsection to read:

27 (c) If a charter is amended, the municipality shall file the indicated number of
28 copies of the revised charter with

29 (1) the lieutenant governor - two copies;

30 (2) the department - two copies;

31 (3) the district recorder - one copy;

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(4) the municipal clerk - one copy.

* Sec. 30. AS 44.47.567(a) is amended to read:

(a) The local boundary commission shall

(1) make studies of local government boundary problems;

(2) adopt regulations providing [DEVELOP PROPOSED] standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY LINES];

(3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and

(4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill levies as well as standards for participation by voters of these contiguous areas in the affairs of the incorporated cities furnishing services.

* Sec. 31. AS 29.04.040(c) and AS 29.10.010(b) are repealed.

COMPARISON BETWEEN SB 164 & DCRA'S 3/25/93 WORK DRAFT

CROSS REFERENCE TABLE

<u>DCRA DRAFT</u>	<u>SB 164</u>
Section 1	none
Section 2	Sections 1, 2 & 3
Section 3	Section 4
Section 4	Section 5
Section 5	Section 6
Section 6	none
Section 7	Section 7
Section 8	Section 8
Section 9	Section 9
Section 10	Section 10
Section 11	none
Section 12	none
Section 13	none
Section 14	none
Section 15	none
Section 16	Section 11
Section 17	Section 12
Section 18	Section 13
Section 19	Sections 14, 15 & 16
Section 20	Section 17
Section 21	Section 18
Section 22	Section 19
Section 23	Section 20
Section 24	none
Section 25	none

**COMPARISON - SB 164/ DCRA'S 3/25/93 DRAFT
PAGE TWO**

PROVISIONS WHICH ARE IDENTICAL

<u>DCRA DRAFT</u>	<u>SB 164</u>
Section 3	Section 4
Section 4	Section 5
Section 5	Section 6
Section 7	Section 7
Section 8	Section 8
Section 9	Section 9
Section 10	Section 10
Section 16	Section 11
Section 17	Section 12

**PROVISIONS WHICH ARE IDENTICAL, EXCEPT THAT DCRA'S
DRAFT ALLOWS FOR MERGER OR CONSOLIDATION AS A
HOME RULE MUNICIPALITY**

<u>DCRA DRAFT</u>	<u>SB 164</u>
Section 20	Section 17
Section 21	Section 18
Section 22	Section 19
Section 23	Section 20

**PROVISIONS OF DCRA'S DRAFT WHICH ARE NOT FOUND IN
SB 164**

Section 1 of DCRA's draft is a housekeeping amendment to AS 14.12.010 to formally acknowledge that a home rule city in the unorganized borough is a city school district. This makes AS 14.12.010 consistent with AS 29.35.260(b).

COMPARISON - SB 164/ DCRA'S 3/25/93 DRAFT
PAGE THREE

Section 6 of DCRA's draft clarifies the discretion of the Commission in acting on petitions for incorporation. The proposed amendment is similar to the language used in the existing statutes regarding annexation and detachment [see AS 29.06.040(a)]. The amendment is proposed because parties have argued in the past that the Commission is obligated to accept an incorporation petition irrespective of significant concerns over the incorporation proposal which were raised at the local or state level.

The language in section 6 also clarifies the authority of the Commission to make general amendments to a petition for incorporation. Presently, the law suggests that the Commission may amend only the boundaries of an incorporation proposal. Typically, there are a number of issues which might be raised during an incorporation proceeding which could warrant amendments to a petition. For example, it is often necessary to modify provisions of an incorporation proposal concerning the composition and apportionment of the governing body in order to bring it into compliance with the equal representation provisions of the Alaska and U.S. constitutions or to comply with the Federal Voting Rights Act. Amendments to incorporation proposals relating to the levy of taxes to insure the financial viability of the proposed municipality are also common. Another example is the need for amendments to a "transition plan" detailing how the proposed municipality will assume assets, liabilities, powers and duties of an existing service provider.

Section 11 of DCRA's draft clarifies the authority of the Commission to make general amendments to a petition for annexation or detachment in the same manner as discussed with respect to Section 6 of DCRA's draft.

Section 12 of DCRA's draft removes any question that a home rule municipality may be formed by merger or consolidation.

Section 13 of DCRA's draft amends procedural requirements to allow for proposals for merger or consolidation as a home rule city or a unified municipality.

Section 14 of DCRA's draft clarifies the discretion of the Commission in acting on petitions for merger and consolidation, and clarifies the authority of the Commission to amend a petition for merger or consolidation in the same manner as discussed with respect to Section 6 of DCRA's draft.

**COMPARISON - SB 164/ DCRA'S 3/25/93 DRAFT
PAGE FOUR**

Section 15 of DCRA's draft makes procedural amendments to allow merger and consolidation of home rule municipalities.

Section 24 of DCRA's draft requires that a home rule municipality which amends its charter must file a copy of the revised charter in the same manner as is presently required for the adoption of a charter.

Section 25 of DCRA's draft provides that the Commission shall adopt regulations governing standards and procedures for the reclassification of cities. The language also clarifies the authority of the Commission to regulate municipal incorporation. Further, it makes a statement at a single point in the law concerning the Commission's authority to regulate all types of boundary proposals.

**PROVISIONS OF DCRA'S DRAFT WHICH DIFFER FROM SB
164.**

Section 2 of DCRA's draft differs from Section 1 of SB 164 in that it would also allow a first class city or home rule city to reclassify as a second class city. Section 2 of DCRA's draft includes language similar to Section 2 of SB 164, except that it clarifies that council means city council. Section 2 of DCRA's draft deletes the language presented in Section 3 of SB 164 on the grounds that any such hearing should have been held prior to the filing of a petition for reclassification and also that the Commission will conduct its own hearing.

Section 18 of DCRA's draft is identical to Section 13 of SB 164, except that it clarifies the fact that the Commission has discretion in accepting a petition for dissolution and that it may amend a petition in the manner discussed with respect to Section 6 of DCRA's draft.

Section 19 of DCRA's draft differs from Section 14 of SB 164 in that it eliminates the provision authorizing a second class city with a population of at least 3,500 and boundaries encompassing at least 35 square miles to adopt a home rule charter. Only one of the 116 second class cities in Alaska meets those standards. It should be stressed, however, that under the amendments proposed by Section 2 of DCRA's draft, a second class city could still reclassify as a first class city. A first class city could, in turn, reclassify as a home rule city under AS 29.10.010. Section 19 of DCRA's draft also carries

MR SB 93 03.21 SB 164/DCRA

**COMPARISON - SB 164/ DCRA'S 3/25/93 DRAFT
PAGE FIVE**

out the provisions allowing a home rule city and unified municipality to incorporate as addressed in Sections 15 and 16 of SB 164; it also makes provisions for merger and consolidation as a home rule municipality.

_____BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE _____ COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, annexation,
2 detachment, merger, consolidation and dissolution."

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

4 * Section. 1 AS 14.12.010 is amended to read:

5 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
6 districts of the state public school system are as follows:

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

9 (2) each organized borough is a borough school district;

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040 is amended to read:

13 Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS, FIRST

14 CLASS AND HOME RULE CITIES. (a) A second class city may be

15 reclassified as a first class city [BY HOLDING AN ELECTION ON THE

16 QUESTION,] if it meets the standards for incorporation of a first class city

17 under AS 29.05.011. A first class or home rule city may be reclassified as a

18 second class city. Reclassification is proposed by filing a petition with the

1 department. The department shall investigate the proposal and report its
2 findings to the Local Boundary Commission with its recommendations. The
3 commission shall hold at least one public hearing in the city on the proposal.
4 If the commission determines that the city meets the standards for
5 incorporation of the proposed classification of city and that reclassification is
6 in the best interests of the state, it may accept or amend and accept the
7 petition and notify the city. If the commission determines that the city does
8 not meet the standards or that reclassification is not in the best interests of
9 the state, it shall reject the petition. The decision may be appealed under the
10 Administrative Procedure Act (AS 44.62) [THE DEPARTMENT
11 DETERMINES FROM THE BEST FIGURES AVAILABLE THAT THE
12 POPULATION OF THE CITY HAS REACHED 400 PERMANENT
13 RESIDENTS].

14 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]
15 reclassification may be filed by [INITIATED IN TWO WAYS]:

16 (1) a number of voters equal to 15 percent of the number of votes
17 cast in the city at the preceding regular election [MAY FILE A PETITION
18 WITH THE COUNCIL]; or

19 (2) the city council may propose reclassification.

20 [(c) THE COUNCIL SHALL HOLD AT LEAST ONE PUBLIC HEARING
21 IN THE CITY ON THE QUESTION OF RECLASSIFICATION. THE
22 COUNCIL SHALL THEN EVALUATE THE ABILITY OF THE CITY TO
23 ASSUME FIRST CLASS STATUS AND MAKE ITS FINDINGS PUBLIC.]`

24 (c) [(u)] The council shall, within 30 days of notification by the Local
25 Boundary Commission, [AFTER ITS FINDINGS HAVE BEEN MADE
26 PUBLIC,] order an election on the question of reclassification. The election
27 shall be held at least 30 days after the order and not later than the next

1 regular election occurring after the 30-day period. If more than one question
2 is to be voted on at the election, each shall appear separately on the ballot.

3 (d) [e] The council shall certify the election results to the department. If
4 a majority of votes cast is favorable, the city shall be considered reclassified
5 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

6 * Sec. 3. AS 29.05.011(a) is amended to read:

7 (a) A community that meets the following standards may incorporate as
8 a first class or home rule city:

9 (1) the community has 400 or more permanent residents;

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

12 (3) the economy of the community includes the human and
13 financial resources necessary to provide municipal services; in considering
14 the economy of the community, the Local Boundary Commission shall
15 consider property values, economic base, personal income, resource and
16 commercial development, anticipated functions, and the expenses and
17 income of the proposed city, including the ability of the community to
18 generate local revenue;

19 (4) the population of the community is stable enough to support
20 city government;

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

22 * Sec. 4. AS 29.05.031(a) is amended to read:

23 (a) An area that meets the following standards may incorporate as a
24 home rule, first class, or second class borough, or as a unified municipality:

25 (1) the population of the area is interrelated and integrated as to its
26 social, cultural, and economic activities, and is large and stable enough to
27 support borough government;

1 (2) the boundaries of the proposed borough or unified
2 municipality conform generally to natural geography and include all areas
3 necessary for full development of municipal services:

4 (3) the economy of the area includes the human and financial
5 resources capable of providing municipal services; evaluation of an area's
6 economy includes land use, property values, total economic base, total
7 personal income, resource and commercial development, anticipated
8 functions, expenses and income of the proposed borough or unified
9 municipality;

10 (4) land, water, and air transportation facilities allow the
11 communication and exchange necessary for the development of integrated
12 borough government.

13 * Sec. 5. AS 29.05.060 is amended to read:

14 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by
15 filing a petition with the department. The petition must [SHALL] include the
16 following information about the proposed municipality:

17 (1) class;

18 (2) name;

19 (3) boundaries;

20 (4) maps, documents, and other information required by the
21 department;

22 (5) composition and apportionment of the governing body;

23 (6) a proposed operating budget for the municipality projecting
24 sources of income and items of expenditure through the first full fiscal year
25 of operation;

1 (7) for a borough or unified municipality, based on the number
2 who voted in the respective areas in the last general election, the signature
3 and resident address of 15 percent of the voters in

4 (A) home rule and first class cities in the area of the
5 proposed borough or unified municipality; and

6 (B) the area of the proposed borough or unified municipality
7 outside home rule and first class cities;

8 (8) for a first class borough or unified municipality, a designation
9 of areawide powers to be exercised;

10 (9) for a second class borough, a designation of areawide and
11 nonareawide powers to be exercised;

12 (10) for a first class, [OR] second class, or home rule city, a
13 designation of the powers to be exercised;

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

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

22 (13) for a home rule city, home rule borough, or unified
23 municipality a proposed home rule charter.

24 * Sec. 6. AS 29.05.100(a) is amended to read:

25 (a) If the Local Boundary Commission determines that a proposed
26 municipality fails to meet the standards for incorporation, it shall reject the
27 petition. If the commission determines that the proposed municipality meets the

1 standards, it may [SHALL] accept the petition. The commission may amend [IF
2 THE COMMISSION DETERMINES THAT THE PROPOSED MUNICIPAL
3 BOUNDARIES CAN BE ALTERED TO MEET THE STANDARDS, IT MAY
4 ALTER THE BOUNDARIES] and accept the petition.

5 * Sec. 7. AS 29.05.110(d) is amended to read:

6 (d) A home rule charter included in an incorporation petition under AS
7 29.05.060(13) is considered to be part of the incorporation question. The
8 home rule charter is adopted if the voters approve incorporation of the city,
9 borough, or unified municipality.

10 * Sec. 8. AS 29.05.140 is amended by adding a new subsection to read:

11 (e) Upon incorporation, the home rule charter of a unified municipality
12 operates to dissolve all municipalities in the area unified in accordance with
13 the charter.

14 * Sec. 9. AS 29.05.190 is amended to read:

15 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
16 UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
17 transition to borough government and to provide for interim governmental
18 operations, each borough or unified municipality incorporated after
19 December 31, 1985, is entitled to organization grants as follows:

20 (1) \$300,000 for the municipality's [BOROUGH'S] first full or
21 partial fiscal year;

22 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal
23 year; and

24 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

25 (b) The department shall disburse the first organization grant to a
26 borough or unified municipality within 30 days after certification of the
27 [INCORPORATION] election favoring incorporation [OF A BOROUGH], or

1 as soon after that as money is appropriated and available for the purpose.
2 The second grant shall be disbursed within 30 days after the beginning of the
3 municipality's [BOROUGH'S] second fiscal year, or as soon after that as
4 money is appropriated and available for the purpose. The third grant shall
5 be disbursed within 30 days after the beginning of the municipality's
6 [BOROUGH'S] third fiscal year, or as soon after that as money is
7 appropriated and available for the purpose.

8 (c) This section does not apply to a borough incorporated by
9 consolidation or to a unified municipality that occupies the area formerly
10 occupied by an organized borough.

11 * Sec. 10. AS 29.05.210 is amended to read:

12 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND
13 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of
14 incorporation of a borough or unified municipality incorporated after
15 December 31, 1985, the department shall determine the population of the
16 borough or unified municipality.

17 (b) The department shall provide assistance to each borough and
18 unified municipality incorporated after December 31, 1985, in

19 (1) establishing the initial sales and use tax assessment and
20 collection department if the borough or unified municipality has adopted as
21 sales or use tax;

22 (2) determining the initial property tax assessment roll if the
23 borough or unified municipality has adopted a property tax, including
24 contracting for appraisals of property needed to complete the initial
25 assessment.

1 (c) This section does not apply to a borough incorporated by
 2 consolidation or to a unified municipality that occupies the area formerly
 3 occupied by an organized borough.

4 * Sec. 11. AS 29.06.040(a) is amended to read:

5 (a) The Local Boundary Commission may consider any proposed
 6 municipal boundary change. It may reject the proposed change, accept the
 7 proposed change, or alter [THE BOUNDARIES] and accept the proposal as
 8 altered. A Local Boundary Commission decision under this subsection may be
 9 appealed under AS 44.62 (Administrative Procedure Act).

10 * Sec. 12. AS 29.06.090(a) is amended to read:

11 (a) Two or more municipalities may merge or consolidate to form a
 12 single general law or home rule municipality, except a third class borough
 13 may not be formed through merger or consolidation.

14 * Sec. 13. AS 29.06.100(b) is amended to read:

- 15 (b) The petition includes
- 16 (1) the name and class of each existing municipality;
 - 17 (2) the name and class of the proposed municipality;
 - 18 (3) the proposed composition and apportionment of the governing
 - 19 body;
 - 20 (4) maps, documents, and other information that shows the
 - 21 proposed municipality meets the standards for municipal incorporation;
 - 22 (5) for a home rule municipality, a proposed home rule charter.

23 * Sec. 14. AS 29.06.130(a) is amended to read:

24 (a) If the Local Boundary Commission determines that the
 25 proposed municipality fails to meet the standards for incorporation, it shall reject
 26 the merger or consolidation petition. If the commission determines that the
 27 proposed municipality meets these standards, it may [SHALL] accept the

WORK DRAFT

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WORK DRAFT

1 petition. The commission may amend [IF THE COMMISSION DETERMINES
2 THAT THE PROPOSED BOUNDARIES OR THE COMPOSITION AND
3 APPORTIONMENT OF THE GOVERNING BODY CAN BE ALTERED TO
4 MEET THE STANDARDS, IT MAY ALTER] the proposal and accept the petition.

5 * Sec. 15. AS 29.06.140 is amended to read:

6 Sec. 29.06.140. ELECTION. (a) The Local Boundary Commission shall
7 immediately notify the director of elections of its acceptance of a merger or
8 consolidation petition. Within 30 days after notification, the director of
9 elections shall order an election in the area to be included in the new
10 municipality to determine whether the voters desire merger or consolidation.
11 The election must be held not less than 30 or more than 90 days after the
12 election order. A voter who is a resident of the area to be included in the
13 proposed municipality may vote.

14 (b) A home rule charter included in a merger or consolidation petition
15 under AS 29.06.100(b)(5) is considered to be part of the merger or
16 consolidation question. The home rule charter is adopted if the voters
17 approve merger or consolidation of the municipality.

18 (c) [b] The director of elections shall supervise the election in the general
19 manner prescribed by the Alaska Election Code (AS 15). The state shall pay
20 all election costs.

21 (d) [c] The director of elections shall certify the election results. If
22 merger or consolidation is approved, the director of elections shall, within 10
23 days, set a date for election of officials of the new municipality. The election
24 date must be not less than 60 or more than 90 days after the election order
25 and it is the effective date for the merger or consolidation.

26 * Sec. 16. AS 29.06.190 is amended by adding a new subsection to read:

WORK DRAFT

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WORK DRAFT

1 (b) An area that is not incorporated as a borough, including any cities in
2 the area, may incorporate as a unified municipality under AS 29.05.031

3 * Sec. 17. AS 29.06.470(a) is amended to read:

4 (a) Except as provided in (b) of this section, voters of a municipality
5 may petition for dissolution when the municipality is free of debt, or, if in
6 debt, each of its creditors is satisfied with a method of repayment and

7 (1) the municipality no longer meets the minimum standards
8 prescribed for incorporation by AS 29.05, or former AS 29.18.030 if it is a
9 third class borough;

10 (2) the municipality ceases to use each of its mandatory powers;
11 or

12 (3) the dissolution petition filed under AS 29.06.460 is signed by a
13 number of voters of the municipality proposed to be dissolved greater than
14 50 percent of the number of votes cast in the last regular [GENERAL]
15 election in that municipality.

16 * Sec. 18. AS 29.06.500(a) is amended to read:

17 (a) If the Local Boundary Commission determines that a municipality
18 fails to meet the standards for dissolution, it shall reject the petition. [IF THE
19 COMMISSION DETERMINES THAT THE MUNICIPALITY MEETS THE
20 STANDARDS UNDER AS 29.06.470(a)(1) OR (2), IT SHALL ACCEPT THE
21 PETITION.] If the commission determines that the petition meets the
22 standards under AS 29.06.470(a)(1), (2), or (3) [AS 29.06.470(a)(3)] and that
23 dissolution of the municipality is in the best interest of the state, it may
24 [SHALL] accept the petition. The commission may amend the proposal and
25 accept the petition.

26 * Sec. 19. AS 29.10.010 is amended to read:

1 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. (a) A general law
2 borough or first class city may adopt a charter for its own government.

3 [(b) A SECOND CLASS CITY THAT EXCEEDS 35 SQUARE MILES IN
4 AREA MAY ADOPT A CHARTER FOR ITS OWN GOVERNMENT IF THE
5 DEPARTMENT DETERMINES FROM THE BEST FIGURES AVAILABLE
6 THAT THE POPULATION OF THE CITY IS AT LEAST 3,500 PERMANENT
7 RESIDENTS .]

8 (b) [(c)] At a [AN] municipal incorporation, merger or consolidation
9 election [FOR BOROUGH INCORPORATION, AN AREA IN THE
10 UNORGANIZED BOROUGH] a municipality may adopt a charter for its
11 own government and incorporate, merge or consolidate as a home rule city,
12 borough, or unified municipality.

13 (c) [(d)] A home rule municipality may adopt a new charter.

14 (d) [(e)]A proposed charter for an existing municipality is prepared by a
15 charter commission of seven elected members. A charter commission
16 election is called by filing a petition with the governing body or by resolution
17 of the governing body. The petition shall be signed by a number of voters
18 equal to 15 percent of the votes cast in the last regular election in the
19 municipality. The petition shall be prepared by the municipal clerk upon
20 receipt of an application meeting the requirements of AS 29.26.110 except
21 that instead of containing an ordinance or resolution the application shall
22 request a charter commission election. The petition shall be prepared in
23 accordance with AS 29.26.120, except material required under AS
24 29.26.120(a)(1) and (2) shall be replaced with the question of whether a
25 charter commission shall be formed. The signature requirements of AS
26 29.26.130(a), (c) and (d) apply to the petition. The completed petition shall be
27 submitted to the clerk who shall deliver it to the governing body with a

1 report of the number of valid signatures determined by the clerk to be on the
2 petition.

3 (f) The proposed charter for a home rule municipality to be formed by
4 incorporation, merger or consolidation [AN AREA OF THE
5 UNORGANIZED BOROUGH] shall be prepared by the petitioners and filed
6 [UNDER AS 29.05.060] with the petition to incorporate, merge or consolidate
7 a home rule city, borough, or unified municipality.

8 * Sec. 20. AS 29.10.020 is amended to read:

9 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at
10 least one model home rule charter for a city, borough, and unified
11 municipality. The model charters [CHARTER] shall be made available to
12 persons interested in filing a petition to form [INCORPORATE], a home rule
13 municipality [BOROUGH] under AS 29.05.060 or AS 29.06.090.

14 * Sec. 21. AS 29.10.070 is amended to read:

15 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter
16 for an existing municipality shall be submitted to the voters at an election
17 held not less than 30 days or more that 90 days after the proposed charter is
18 published. The proposed [HOME RULE] charter for a home rule
19 municipality to be formed by incorporation, merger or consolidation [AN
20 AREA IN THE UNORGANIZED BOROUGH] shall be submitted to the
21 voters at an incorporation election held under AS 29.05.110 or a merger or
22 consolidation election held under AS 29.06.140.

23 * Sec. 22. AS 29.10.080(a) is amended to read:

24 (a) If a majority of those voting in an existing municipality favor the
25 proposed charter or if a majority of those voting to form a home rule
26 municipality through incorporation, merger or consolidation [IN AN AREA
27 IN THE UNORGANIZED BOROUGH] favor incorporation, merger or

1 consolidation [OF A HOME RULE BOROUGH], the proposed charter
2 becomes the organic law of the municipality effective on the date the election
3 is certified. Thereafter, a court shall take judicial notice of the charter. The
4 new home rule municipality shall file the indicated number of copies of the
5 charter with

6 (1) the lieutenant governor - two copies;

7 (2) the department - two copies;

8 (3) the district recorder - one copy;

9 (4) the municipal clerk - one copy.

10 * Sec. 23. AS 29.10.090(b) is amended to read:

11 (b) If incorporation, merger or consolidation of a home rule
12 municipality [BOROUGH] is rejected by the voters [IN AN AREA IN THE
13 UNORGANIZED BOROUGH], the proposed charter is rejected.

14 * Sec. 24. AS 29.10.100 is amended to read:

15 Sec. 29.10.100. CHARTER AMENDMENT. (a) A home rule charter may
16 be amended as provided in the charter, except that no amendment is
17 effective unless ratified by the voters.

18 (b) Following amendment of the charter, the municipality shall file the
19 indicated number of copies of the revised charter with

20 (1) the lieutenant governor - two copies;

21 (2) the department - two copies;

22 (3) the district recorder - one copy;

23 (4) the municipal clerk - one copy.

24 (c) [b] This section applies to home rule municipalities.

25 * Sec. 25. AS 44.47.567(a) is amended to read:

26 (a) The local boundary commission shall

27 (1) make studies of local government boundary problems;

1 (2) adopt regulations providing [DEVELOP PROPOSED]
2 standards and procedures for municipal incorporation, annexation,
3 detachment, merger, consolidation, reclassification and dissolution
4 [CHANGING LOCAL BOUNDARY LINES];

5 (3) consider a local government boundary change requested of it
6 by the legislature, the commissioner of community and regional affairs, or a
7 political subdivision of the state; and

8 (4) develop standards and procedures for the extension of services
9 and ordinances of incorporated cities into contiguous areas for limited
10 purposes upon majority approval of the voters of the contiguous area to be
11 annexed and prepare transition schedules and prorated tax mill levies as
12 well as standards for participation by voters of these contiguous areas in the
13 affairs of the incorporated cities furnishing services.

To: Shirley Armstrong

VIA FAX 465-4979

From: Dan Bockhorst

I have reviewed the April 9, 1993 work draft of CS for Senate Bill No. 164 and offer the following comments informally.

With two exceptions, the bill accommodates all of the amendments suggested in the March 25, 1993 proposal from the Department.. The exceptions are:

1) The April 9 work draft retains language in AS 29.04.040(c) calling for a hearing by the city council to determine whether the city can assume the duties associated with the proposed reclassification. We had proposed to repeal this section because the Local Boundary Commission would address that topic and others during its hearing. However, we have no strong objection to retaining the concept requiring a hearing before the city - council. Nevertheless, the following technical amendment will be necessary if the concept of the city council hearing is to be retained:

AS 29.04.040(c) is amended to read:

(c) The council shall hold at least one public hearing in the city on the question of reclassification. The council shall then evaluate the ability of the city to assume the powers and duties of the city as it is proposed to be reclassified. The council shall make its findings public. [FIRST CLASS STATUS AND MAKE ITS FINDINGS PUBLIC]

will get amendments & fiscal note done.

2) The April 9 work draft retains language in AS 29.06.500(b) allowing a second class city that exceeds 35 square miles in area with a population of 3,500 permanent residents to adopt a home rule charter. DCRA had proposed in our March 25 draft to repeal this provision on the grounds that it applies only to one of Alaska's 116 second class cities. We continue to support the repeal of this provision in the interests of good public policy. We do not believe that statutory provisions should be written to apply to such local and special interests. If an effort were ever made to utilize this provision, we believe that it could conflict with Article II, Section 19 of the Alaska Constitution which prohibits "local or special acts" by the legislature.

would only apply to 12nd class city

In addition to the preceding two "policy type" issues, the Department makes the following recommendations with respect to technical aspects of the April 9 draft.

a) The title should make reference to annexation, detachment, merger and consolidation. Currently, it only makes reference to incorporation, reclassification, dissolution and municipal school districts.

subject amendment

b) The section title of AS 29.04.040 should be amended to make reference to first class and home rule cities. Under the April 9 draft, this section would retain its current title which only makes reference to reclassification of second class cities.

c) The word "shall" which appears at line 19 in Section 21 of the April 9 draft should be changed to "may". Such would make that provision consistent with all other provisions relating to the local boundary commission action on petitions.

MAR 25 1993

MEMORANDUM
State of Alaska
Department of Community & Regional Affairs

To: Shirley Armstrong
Senate C&RA Committee Staff

VIA FAX 465-4979

From: Dan Bockhorst
Local Boundary Commission Staff

Date: March 26, 1993

Subject: Senate Bill 164

Three of the four currently appointed members of the Local Boundary Commission have indicated that they will be present at the Senate C&RA Committee's teleconference hearing on SB 164. Shelley Dugan, the Vice-Chairperson of the LBC, is unable to attend due to previous commitments.

The name and teleconference site or off-site telephone number for each of those who will participate are listed below:

SENATE C&RA COMMITTEE
HEARING ON SB 164

9:00 A.M. - TUESDAY, MARCH 30, 1993

<u>INDIVIDUAL</u>	<u>TELECONFERENCE SITE OR OFF-SITE TELEPHONE NUMBER</u>
Darroll Hargraves	Ketchikan Legislative Info. Office
Frances Hallgren	off-site @ 747-5076
Myrtle Johnson	off-site @ 443-5238
Dan Bockhorst	off-site @ 269-4500

tele # 30457

*Seth - offnet
800-478-7612*

*Amel
(700)-222-1000*

*BCI account
instead of
Alaska
area code
10866*

MEMORANDUM

State of Alaska

Department of Community
and Regional Affairs

TO: Senator Randy Phillips

DATE: Tuesday, March 2, 1993

FILE NO: S RPhillips/3-2

THRU:

TELEPHONE: (907) 465-4700

FROM: Bruce R. Geraghty *BRG*
Deputy Commissioner

SUBJECT: Legislative Issues
Important to DCRA

You have asked for "one liners" describing current legislative issues that concern the department. The following is the short list. I have not included all the bills, or issues, the department is tracking. This list represents items the department supports.

1. Local Boundary Commission.

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- B. City of Haines annexations of 4.75 and 7 square miles.
- C. City of Hoonah annexation of 7.25 square miles.
- D. City of Palmer annexation of 7.5 acres.
- E. Suggested changes to Title 29.

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The following comments are offered for consideration:

I. RECLASSIFICATION OF CITIES.

A. Include Provisions for Reclassification of First Class and Home Rule. On February 11, members of the Senate C&RA Committee (particularly Senator Sturgulewski) expressed the need to provide standards and procedures for reclassification of home rule or first class cities. Currently, the law makes no provision for such reclassification. The Local Boundary Commission, a majority of whom were present at the February 11 meeting of the Senate C&RA Committee, informally agreed that provisions allowing such reclassifications are needed. The Department of Community and Regional Affairs also feels that such provisions are necessary.

It would appear that the work draft could be readily modified to accommodate this desired change. This could be done by either eliminating specific references to second class cities in the Section 1 - 3 of the work draft, or alternatively adding appropriate references to first class and home rule cities. Other provisions of AS 29.04.040 which do not appear in the work draft would also have to be modified (e.g. modification of the section title "Reclassification of second class cities").

B. Add Regulatory Authority. The Department recommends that consideration be given to adding language which explicitly grants authority to the Local Boundary Commission to adopt regulations concerning reclassifications. However, care should be taken to ensure that the effect of doing so does not adversely impact the Commission's authority in other areas.

The Commission has clear authority to adopt regulations to provide standards and procedures for "changing local boundary lines" (AS 44.47.567). The term "changing local boundary lines" has long been interpreted by the Commission, this agency and the Attorney General's office to include municipal incorporations.

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Post-It™ brand fax transmittal memo 7871	# of pages = 10
From: Shirley Armstrong	
To: Dan Brinkhorst	
cc: D. Kelly	
Dept: Co. Phillipc off.	
Phone # 269-4500	
Fax # 269-4520	

The Department is concerned that by explicitly providing authority to the Commission to adopt regulations to reclassify municipalities, it may somehow weaken the case that the Commission has authority to regulate incorporations. Perhaps the best manner to address this concern would be to also provide explicit authority for the Commission to adopt regulations for incorporation in the fashion which has been done for annexations, detachments, mergers, consolidations and dissolutions (AS 29.06.040(c), 29.06.090(b)(1), 29.06.450(a)(1)).

Provisions explicitly authorizing the Commission to adopt municipal incorporation regulations would not seem at all out of place in the draft bill (e.g. Section 4).

C. Modify Requirement for Council Hearings. Section 3 of the draft retains the requirement in existing law that the city council hold a hearing on the proposed reclassification. However, the draft amends AS 29.04.040(c) to require the city council to conduct the hearing after the LBC has accepted the petition. There is little point in the council holding a hearing and "then evaluat[ing] the ability of the city to assume first class status" after the Commission has already approved a petition for reclassification.

The Department believes that there is merit in promoting public deliberation on any proposed reclassification before a petition is filed. Consequently, the Department recommends that AS 29.04.040(c) be repealed, but that Section 2 of the draft be amended at line 8 to read to the effect of the following: "(2) the council may propose reclassification if it determines, on the basis of at least one public hearing, that the city has the human and financial resources necessary to assume the classification proposed."

Additionally, AS 29.04.040(d) should be modified to reflect any change of the requirement for the hearing by the council.

II. INCORPORATION OF UNIFIED MUNICIPALITIES.

A. Scope. It should be clear that a unified municipality could form whether or not city government(s) or borough government(s) exist prior to incorporation of the unified municipality. Perhaps it would be best to explicitly state such in the bill.

B. Effect. It should also be clear that incorporation of a unified municipality dissolves all cities and boroughs within its boundaries. Again, perhaps it would be best to make an explicit statement to this effect in the bill. Language similar to that in AS 29.06.370 would seem to be suitable.

C. Assistance. Sections 8 and 9 of the bill concerning organizational grants and transitional assistance contain language that exempts the application of these provisions to "a unified municipality that occupies the area formerly occupied by a borough." The Department supports appropriate limitations to avoid abuse of the opportunity for such assistance. However, it would be ideal to craft language which does not preclude such assistance where it may be truly warranted.

For example, an area within a borough might wish to join with a large unincorporated region to form a single borough or unified municipality (e.g. the 25,000 square mile Lake and Peninsula Borough and the 22,000 square mile Dillingham Census Area). Since a substantial portion of such a new municipality would include territory which was previously part of the unorganized borough, it would seem appropriate to extend the organizational grant and transitional assistance to the municipality. Obviously, some standard would have to be developed to determine the circumstances under which this provision would apply.

Further, a borough or unified municipality which encompasses previously unincorporated territory should be eligible to receive a municipal land entitlement under AS 29.65 for that portion of the municipality not previously within a borough.

CONCLUSION

We appreciate the opportunity to review and comment on the working draft at this time. We look forward to the opportunity to provide further comments as this matter progresses.

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Cook
2/18/92

Post-It™ brand fax transmittal memo 7671		# of pages	7
To: Dan Backhurst	From: Sara Fisher		
Co:	Co: Sen. Frank		
Dept: C.A.R.A.	Phone #: 465-3709		
Fax #: 269-4570	Fax #: 465-4714		

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, and dissolution."

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

3 * Section 1. AS 29.04.040(a) is amended to read:

4 (a) A second class city may be reclassified as a first class city [BY HOLDING AN
5 ELECTION ON THE QUESTION,] if it meets the standards for incorporation as a first class
6 city under AS 29.05.011(a). Reclassification is proposed by filing a petition with the
7 department. The department shall investigate the proposal and report its findings to the
8 Local Boundary Commission with its recommendations. The commission shall hold at least
9 one public hearing in the city on the proposal. If the commission determines that the city
10 meets the standards for incorporation as a first class city and that reclassification is in the
11 best interests of the state, it shall accept the petition. If the commission determines that the
12 city does not meet the standards or that reclassification is not in the best interests of the
13 state, it shall reject the petition. The decision may be appealed under the Administrative
14 Procedure Act (AS 44.62) [THE DEPARTMENT DETERMINES FROM THE BEST FIGURES

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1 AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED 400 PERMANENT
2 RESIDENTS].

3 * Sec. 2. AS 29.04.040(b) is amended to read:

4 (b) A petition proposing [AN ELECTION ON THE QUESTION OF] reclassification
5 may be filed by [INITIATED IN TWO WAYS:]

6 (1) a number of voters equal to 15 percent of the number of votes cast in the city
7 at the preceding regular election [MAY FILE A PETITION WITH THE COUNCIL]; or

8 (2) the council may propose reclassification.

9 * Sec. 3. AS 29.04.040(c) is amended to read:

10 (c) If the Local Boundary Commission accepts a petition for reclassification, the
11 [THE] council shall hold at least one public hearing in the city on the question of reclassification.
12 The council shall then evaluate the ability of the city to assume first class status and make its
13 findings public.

14 * Sec. 4. AS 29.05.011(a) is amended to read:

15 (a) A community that meets the following standards may incorporate as a first class or
16 home rule city:

17 (1) the community has 400 or more permanent residents;

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

20 (3) the economy of the community includes the human and financial resources
21 necessary to provide municipal services; in considering the economy of the community, the Local
22 Boundary Commission shall consider property values, economic base, personal income, resource
23 and commercial development, anticipated functions, and the expenses and income of the proposed
24 city, including the ability of the community to generate local revenue;

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

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

27 * Sec. 5. AS 29.05.031(a) is amended to read:

28 (a) An area that meets the following standards may incorporate as a home rule, first
29 class, or second class borough, or as a unified municipality:

30 (1) the population of the area is interrelated and integrated as to its social,
31 cultural, and economic activities, and is large and stable enough to support borough government;

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1 (2) the boundaries of the proposed borough or unified municipality conform
2 generally to natural geography and include all areas necessary for full development of municipal
3 services;

4 (3) the economy of the area includes the human and financial resources capable
5 of providing municipal services; evaluation of an area's economy includes land use, property
6 values, total economic base, total personal income, resource and commercial development,
7 anticipated functions, expenses, and income of the proposed borough or unified municipality;

8 (4) land, water, and air transportation facilities allow the communication and
9 exchange necessary for the development of integrated borough government.

10 * Sec. 6. AS 29.05.060 is amended to read:

11 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a petition with
12 the department. The petition must [SHALL] include the following information about the
13 proposed municipality:

14 (1) class;

15 (2) name;

16 (3) boundaries;

17 (4) maps, documents, and other information required by the department;

18 (5) composition and apportionment of the governing body;

19 (6) a proposed operating budget for the municipality projecting sources of income
20 and items of expenditure through the first full fiscal year of operation;

21 (7) for a borough or unified municipality, based on the number who voted in
22 the respective areas in the last general election, the signature and resident address of 15 percent
23 of the voters in

24 (A) home rule and first class cities in the area of the proposed borough
25 or unified municipality; and

26 (B) the area of the proposed borough or unified municipality outside
27 home rule and first class cities;

28 (8) for a first class borough or unified municipality, a designation of areawide
29 powers to be exercised;

30 (9) for a second class borough, a designation of areawide and nonareawide powers
31 to be exercised;

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1 (10) for a first class, [OR] second class, or home rule city, a designation of the
2 powers to be exercised;

3 (11) for a first class or home rule city, based on the number who voted in the
4 area in the last general election, the signatures and resident addresses of 50 voters in the proposed
5 city or of 15 percent of the voters in the proposed city, whichever is greater;

6 (12) for a second class city, based on the number who voted in the area in the last
7 general election, the signatures and resident addresses of 25 voters in the proposed city or of 15
8 percent of the voters in the proposed city, whichever is greater;

9 (13) for a home rule city, home rule borough, or unified municipality a
10 proposed home rule charter.

11 * Sec. 7. AS 29.05.110(d) is amended to read:

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

15 * Sec. 8. AS 29.05.190 is amended to read:

16 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND UNIFIED
17 MUNICIPALITIES. (a) For the purpose of defraying the cost of transition to borough
18 government and to provide for interim governmental operations, each borough or unified
19 municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

20 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial fiscal
21 year;

22 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year; and

23 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

24 (b) The department shall disburse the first organization grant to a borough or unified
25 municipality within 30 days after certification of the [INCORPORATION] election favoring
26 incorporation [OF A BOROUGH], or as soon after that as money is appropriated and available
27 for the purpose. The second grant shall be disbursed within 30 days after the beginning of the
28 municipality's [BOROUGH'S] second fiscal year, or as soon after that as money is appropriated
29 and available for the purpose. The third grant shall be disbursed within 30 days after the
30 beginning of the municipality's [BOROUGH'S] third fiscal year, or as soon after that as money
31 is appropriated and available for the purpose.

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1 (c) This section does not apply to a borough incorporated by consolidation or to a unified
2 municipality that occupies the area formerly occupied by a borough.

3 * Sec. 9. AS 29.05.210 is amended to read:

4 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND UNIFIED
5 MUNICIPALITIES. (a) Within 30 days after the date of incorporation of a borough or unified
6 municipality incorporated after December 31, 1983, the department shall determine the
7 population of the borough or unified municipality.

8 (b) The department shall provide assistance to each borough and unified municipality
9 incorporated after December 31, 1985, in

10 (1) establishing the initial sales and use tax assessment and collection department
11 if the borough or unified municipality has adopted a sales or use tax;

12 (2) determining the initial property tax assessment roll if the borough or unified
13 municipality has adopted a property tax, including contracting for appraisals of property needed
14 to complete the initial assessment.

15 (c) This section does not apply to a borough incorporated by consolidation or to a unified
16 municipality that occupies the area formerly occupied by a borough.

17 * Sec. 10. AS 29.06.470(a) is amended to read:

18 (a) Except as provided in (b) of this section, voters of a municipality may petition for
19 dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied
20 with a method of repayment and

21 (1) the municipality no longer meets the minimum standards prescribed for
22 incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

23 (2) the municipality ceases to use each of its mandatory powers; or

24 (3) the dissolution petition filed under AS 29.06.460 is signed by a number of
25 voters of the municipality proposed to be dissolved greater than 50 percent of the number of
26 votes cast in the last regular [GENERAL] election in that municipality.

27 * Sec. 11. AS 29.06.500(a) is amended to read:

28 (a) If the Local Boundary Commission determines that a municipality fails to meet the
29 standards for dissolution, it shall reject the petition. [IF THE COMMISSION DETERMINES
30 THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER AS 29.06.470(A)(1) OR
31 (2), IT SHALL ACCEPT THE PETITION.] If the commission determines that the petition meets

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1 the standards under AS 29.06.470(a)(1), (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of
 2 the municipality is in the best interest of the state, it shall accept the petition.

3 * Sec. 12. AS 29.10.010(b) is amended to read:

4 (b) A second class city that exceeds 35 square miles in area may adopt a charter for its
 5 own government and reclassify as a home rule city if the department determines from the best
 6 figures available that the population of the city is at least 5,500 permanent residents.
 7 Reclassification is proposed by filing a petition with the department. The department shall
 8 investigate the proposal and report its findings to the Local Boundary Commission with its
 9 recommendations. The commission shall hold at least one public hearing in the city on the
 10 proposal. If the commission determines that the city meets the standards under this section
 11 and that reclassification is in the best interests of the state, it shall accept the petition. If
 12 the commission determines that the city does not meet the standards or that reclassification
 13 is not in the best interests of the state, it shall reject the petition. The decision may be
 14 appealed under the Administrative Procedure Act (AS 44.62).

15 * Sec. 13. AS 29.10.010(c) is amended to read:

16 (c) At an incorporation election [FOR BOROUGH INCORPORATION], an area in the
 17 unorganized borough may adopt a charter for its own government and incorporate as a home rule
 18 city, borough, or unified municipality.

19 * Sec. 14. AS 29.10.010(f) is amended to read:

20 (f) The proposed charter for an unincorporated area [OF THE UNORGANIZED
 21 BOROUGH] shall be prepared by the petitioners and filed under AS 29.05.060 with the petition
 22 to incorporate a home rule city, borough, or unified municipality.

23 * Sec. 15. AS 29.10.020 is amended to read:

24 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least one model
 25 home rule charter for a city, borough, and unified municipality. The model charters
 26 [CHARTER] shall be made available to persons interested in filing a petition to incorporate a
 27 home rule municipality [BOROUGH] under AS 29.05.060.

28 * Sec. 16. AS 29.10.070 is amended to read:

29 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for an existing
 30 municipality shall be submitted to the voters at an election held not less than 30 days or more
 31 than 90 days after the proposed charter is published. The proposed home rule charter for an

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1 unincorporated area [IN THE UNORGANIZED BOROUGH] shall be submitted to the voters
2 at an incorporation election held under AS 29.05.110.

3 * Sec. 17. AS 29.10.080(a) is amended to read:

4 (a) If a majority of those voting in an existing municipality favor the proposed charter
5 or if a majority of those voting in an unincorporated area [IN THE UNORGANIZED
6 BOROUGH] favor incorporation of a home rule municipality [BOROUGH], the proposed charter
7 becomes the organic law of the municipality effective on the date the election is certified.
8 Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall
9 file the indicated number of copies of the charter with

10 (1) the lieutenant governor - two copies;

11 (2) the department - two copies;

12 (3) the district recorder - one copy;

13 (4) the municipal clerk - one copy.

14 * Sec. 18. AS 29.10.090(b) is amended to read:

15 (b) If incorporation of a home rule municipality [BOROUGH] is rejected by the voters
16 in an unincorporated area [IN THE UNORGANIZED BOROUGH], the proposed charter is
17 rejected.

IV. SPECIAL ISSUES

Suggested Changes to Title 29

The LBC and its DCRA staff work with many of the state's municipalities each year. As a result, the Commission routinely confronts requirements and procedures which appear, in practice, to have a different result for municipalities or the state than the legislature probably intended when enacting the statute. The following are some suggested changes to Title 29 which the Commission believes would be in Alaskans' best interest.

- Allow direct incorporation of home rule cities and unified municipalities.
- Provide state oversight in the reclassification of 2nd class cities in the unorganized borough.
- Technical amendments to laws relating to municipal dissolution.

→ Amend AS 29.05.011 to Permit Incorporation of Home Rule Cities - Currently, residents of an unincorporated community may not directly incorporate as a home rule city. Instead, the community must first incorporate as a first or second class city, and then go through the process of adopting a charter. In 1985, the Legislature amended state law to allow home rule boroughs to form directly. The LBC believes it would be sensible and more cost-efficient to allow an unincorporated city with a least 400 permanent residents (the minimum number of residents required for first class city status) to incorporate directly as a home rule city in a one-step process.

→ Amend AS 29.04.040 and AS 29.10.010 to Require LBC Approval of Reclassification of a Second Class City in the Unorganized Borough - State law currently allows a second class city with a population of at least 400 to reclassify as a first class city without approval from the state. A second class city with 3,500+ residents and an area of at least 35 square miles may also become a home rule city without approval from the state. Such a reclassification in the unorganized borough is an event of major state interest because first class and home rule cities in the unorganized borough must operate municipal school districts. Although AS 14.17.139 requires Department of Education approval for the formation of any new district with less than 250 students, DOE has indicated that it and the Attorney General's office have doubts about the enforceability of that requirement. Without state approval being required for reclassification, the state faces the prospect of a sharp increase in the number of small city school districts. Presently, there are 24 second class cities in the unorganized borough which could, under the current rules, reclassify to first class status. There are also six unincorporated communities with enough population to incorporate and then reclassify to first class. The LBC recommends that these reclassifications be treated similarly to direct incorporation of first class cities, requiring a petition to the LBC.

→ Amend AS 29.06.190 to Allow Direct Incorporation of Unified Municipality - Residents of a number of regions in Alaska's unorganized borough have expressed an interest in being permitted to incorporate unified municipalities. Currently, only incorporated cities and an organized borough may unify. The Commission believes it would be beneficial to allow the direct incorporation of unified municipalities in regions with multiple communities, whether or not those communities or a borough were incorporated prior to unification.

→ Amend AS 29.06.470 & AS 29.06.500 to Clarify Dissolution Standards - In 1988, the Legislature amended sections .470 and .500 to authorize the dissolution of a municipality if more than 50% of the voters in the last general election petitioned for dissolution and if the LBC determined that dissolution was in the best interests of the state. However, when the dissolution laws are read as a whole, it appears that the LBC, regardless of the state's best interests, may have no discretion to reject a dissolution petition when the municipality is free of debt or has satisfied its creditors with a method of repayment, and either a) ceases to use each of its mandatory powers or b) no longer meets the standards for incorporation. The LBC believes it should have the discretion to consider the state's best interests in all dissolutions, and recommends that the language be clarified.

In addition, AS 29.06.470 refers to the last "general" election in the municipality when describing how to determine the required number of signatures on a dissolution petition filed under AS 29.06.470(a)(3). However, AS 29.06.460 uses last "regular" election as the basis for determining the required number of signatures on a dissolution petition filed under its provisions. Under state law, municipal elections are called "regular" elections, while "general" election usually refers to a state election. If the Legislature intended that the number of required signatures required under AS 29.06.470 be based upon the turnout in the last municipal election, then, to be clear, the term should be changed from "general" to "regular."

MEMORANDUM

State of Alaska

Department of Community
and Regional Affairs

TO: Senator Randy Phillips

DATE: Tuesday, March 2, 1993

FILE NO: S RPhillips/3-2

THRU:

TELEPHONE:(907) 465-4700

FROM: Bruce R. Geraghty *BRG*
Deputy Commissioner

SUBJECT: Legislative Issues
Important to DCRA

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Post-it brand fax transmittal memo 7871	# of pages 10
From Shirley Armstrong	Den Riphorst
To Sen Phillips et al	ca DREFH
Dept	Phone # 269-4500
Fax #	269-4500

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II. INCORPORATION OF UNIFIED MUNICIPALITIES.

A. Scope. It should be clear that a unified municipality could form whether or not city government(s) or borough government(s) exist prior to incorporation of the unified municipality. Perhaps it would be best to explicitly state such in the bill.

B. Effect. It should also be clear that incorporation of a unified municipality dissolves all cities and boroughs within its boundaries. Again, perhaps it would be best to make an explicit statement to this effect in the bill. Language similar to that in AS 29.06.370 would seem to be suitable.

C. Assistance. Sections 8 and 9 of the bill concerning organizational grants and transitional assistance contain language that exempts the application of these provisions to "a unified municipality that occupies the area formerly occupied by a borough." The Department supports appropriate limitations to avoid abuse of the opportunity for such assistance. However, it would be ideal to craft language which does not preclude such assistance where it may be truly warranted.

For example, an area within a borough might wish to join with a large unincorporated region to form a single borough or unified municipality (e.g. the 25,000 square mile Lake and Peninsula Borough and the 22,000 square mile Dillingham Census Area). Since a substantial portion of such a new municipality would include territory which was previously part of the unorganized borough, it would seem appropriate to extend the organizational grant and transitional assistance to the municipality. Obviously, some standard would have to be developed to determine the circumstances under which this provision would apply.

Further, a borough or unified municipality which encompasses previously unincorporated territory should be eligible to receive a municipal land entitlement under AS 29.65 for that portion of the municipality not previously within a borough.

CONCLUSION

We appreciate the opportunity to review and comment on the working draft at this time. We look forward to the opportunity to provide further comments as this matter progresses.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Rick Halford
Senator Al Adams
Senator Fred Zharoff

Sectional Analysis
CSSB 164 (CRA)

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

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Section 1: Housekeeping change to formally acknowledge that a home rule city in an unorganized borough is a city school district. This makes AS 14.12.010 consistent with 29.35.

Section 2: Provides a petition process for home rule or first class cities to be reclassified as a second class city.

Section 3: Changes the procedures for filing a reclassification petition.

Section 4: Reclassification elections must be held within 30 days after petition is accepted by the Local Boundary Commission.

Section 5: Areas are reclassified 30 days after certification of the vote.

Section 6: Adds the ability to for an area to incorporate as a first class or home rule city.

Section 7: Adds the ability of an area to incorporate as a unified municipality.

Section 8: Outlines the requirements for a petition seeking to reclassify first or second cities, home rule cities, boroughs and a unified municipalities.

Section 9: Gives the Local Boundary Commission the ability to amend the incorporation petition.

Section 10: Adds cities and unified municipalities to the section on home rule charters.

Section 11: Adds a section stating that upon incorporation the home rule charter voted on dissolves all municipalities in the area unified.

Section 12: Adds unified municipalities to the list of approved organizations eligible to received organizational government grants.

Section 13: Adds unified municipalities.

Section 14: Clarifies the authority of the Local Boundary Commission to make general amendments to a petition for annexation or detachment in the same manner as discussed with respect to Section 9.

Section 15: Removes any question that a home rule municipality may be formed by merger or consolidation.

Section 16: Amends procedural requirements to allow for proposals for merger or consolidation as a home rule city or unified municipality.

Section 17: Clarifies the discretion of the LBC in acting on petitions for merger and consolidation, and clarifies the authority of the LBC to amend a petition for merger or consolidation in the same manner as discussed with respect to Section 9 and 14.

Section 18: Clarifies that the home rule charter in a merger and consolidation is part of the question voted on by the voters.

Section 19: Allows areas not incorporated as a boroughs or city to incorporate as a unified municipality.

Section 20: Changes the term general election to regular election.

Section 21: Allows the LBC to amend a dissolution petition.

Section 22: Adds language clarifying what types of actions that can be adopted at incorporation, merger or consolidation election.

Section 23: States that the proposed charter for a home rule municipality shall be filed with the petition to merger or consolidate as a home rule city or unified municipality.

Section 24: Adds unified municipality.

Section 25: Adds home rule municipality.

Section 26: Adds home rule municipality.

Section 27: Adds home rule municipality

Section 28: Lists the agencies that an amended charter should be filed with.

Section 29: Directs the LBC to adopt regulations providing standards and procedures for municipal incorporations, annexations, detachments, mergers, consolidations, reclassifications and dissolutions.

Section 30: Repeals AS 29.04.040(c) and AS 29.10.010(b).

8-LS0837E ✓
Cook
4/9/93

Adopted

CS FOR SENATE BILL NO. 164()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, and dissolution, and
2 municipal school districts."

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

4 * Section 1. AS 14.12.010 is amended to read:

5 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
6 districts of the state public school system are as follows:

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

9 (2) each organized borough is a borough school district;

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040(a) is amended to read:

13 (a) A second class city may be reclassified as a first class city. A first class
14 or home rule city may be reclassified as a second class city. Reclassification is

1 proposed by filing a petition with the department. The department shall
2 investigate the proposal and report its findings to the Local Boundary
3 Commission with its recommendations. The commission shall hold at least one
4 public hearing in the city on the proposal. If the commission determines that the
5 city meets the standards for incorporation under AS 29.05.011 for the class of city
6 proposed in the reclassification petition and that reclassification is in the best
7 interests of the state, it may accept or amend and accept the petition. If the
8 commission determines that the city does not meet the standards or that
9 reclassification is not in the best interests of the state, it shall reject the petition.
10 The commission shall notify the city of its decision. The decision may be appealed
11 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION
12 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST
13 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED
14 400 PERMANENT RESIDENTS].

15 * Sec. 3. AS 29.04.040(b) is amended to read:

16 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]
17 reclassification may be filed by [INITIATED IN TWO WAYS:]

18 (1) a number of voters equal to 15 percent of the number of votes cast
19 in the city at the preceding regular election [MAY FILE A PETITION WITH THE
20 COUNCIL]; or

21 (2) the council [MAY PROPOSE RECLASSIFICATION].

22 * Sec. 4. AS 29.04.040(d) is amended to read:

23 (d) The council shall, within 30 days after receiving notification from the
24 Local Boundary Commission that a petition has been accepted [ITS FINDINGS
25 HAVE BEEN MADE PUBLIC], order an election on the question of reclassification.
26 The election shall be held at least 30 days after the order and not later than the next
27 regular election occurring after the 30-day period. If more than one question is to be
28 voted on at the election, each shall appear separately on the ballot.

29 * Sec. 5. AS 29.04.040(e) is amended to read:

30 (e) The council shall certify the election results to the department. If the
31 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified

1 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

2 * Sec. 6. AS 29.05.011(a) is amended to read:

3 (a) A community that meets the following standards may incorporate as a first
4 class or home rule city:

5 (1) the community has 400 or more permanent residents;

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

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

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

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

17 * Sec. 7. AS 29.05.031(a) is amended to read:

18 (a) An area that meets the following standards may incorporate as a home rule,
19 first class, or second class borough, or as a unified municipality:

20 (1) the population of the area is interrelated and integrated as to its
21 social, cultural, and economic activities, and is large and stable enough to support
22 borough government;

23 (2) the boundaries of the proposed borough or unified municipality
24 conform generally to natural geography and include all areas necessary for full
25 development of municipal services;

26 (3) the economy of the area includes the human and financial resources
27 capable of providing municipal services; evaluation of an area's economy includes land
28 use, property values, total economic base, total personal income, resource and
29 commercial development, anticipated functions, expenses, and income of the proposed
30 borough or unified municipality;

31 (4) land, water, and air transportation facilities allow the

1 communication and exchange necessary for the development of integrated borough
2 government.

3 * Sec. 8. AS 29.05.060 is amended to read:

4 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a
5 petition with the department. The petition must [SHALL] include the following
6 information about the proposed municipality:

7 (i) class;

8 (2) name;

9 (3) boundaries;

10 (4) maps, documents, and other information required by the department;

11 (5) composition and apportionment of the governing body;

12 (6) a proposed operating budget for the municipality projecting sources
13 of income and items of expenditure through the first full fiscal year of operation;

14 (7) for a borough or unified municipality, based on the number who
15 voted in the respective areas in the last general election, the signature and resident
16 address of 15 percent of the voters in

17 (A) home rule and first class cities in the area of the proposed
18 borough or unified municipality; and

19 (B) the area of the proposed borough or unified municipality
20 outside home rule and first class cities;

21 (8) for a first class borough or unified municipality, a designation of
22 areawide powers to be exercised;

23 (9) for a second class borough, a designation of areawide and
24 nonareawide powers to be exercised;

25 (10) for a first class, [OR] second class, or home rule city, a
26 designation of the powers to be exercised;

27 (11) for a first class or home rule city, based on the number who voted
28 in the area in the last general election, the signatures and resident addresses of 50
29 voters in the proposed city or of 15 percent of the voters in the proposed city,
30 whichever is greater;

31 (12) for a second class city, based on the number who voted in the area

1 in the last general election, the signatures and resident addresses of 25 voters in the
2 proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

3 (13) for a home rule city, home rule borough, or unified municipality
4 a proposed home rule charter.

5 * Sec. 9. AS 29.05.100(a) is amended to read:

6 (a) If the Local Boundary Commission determines that a proposed municipality
7 fails to meet the standards for incorporation, it shall reject the petition. If the
8 commission determines that the proposed municipality meets the standards, it may
9 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES
10 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO
11 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the
12 petition.

13 * Sec. 10. AS 29.05.110(d) is amended to read:

14 (d) A home rule charter included in an incorporation petition under
15 AS 29.05.060(13) is considered to be part of the incorporation question. The home
16 rule charter is adopted if the voters approve incorporation of the city, borough, or
17 unified municipality.

18 * Sec. 11. AS 29.05.140 is amended by adding a new subsection to read:

19 (e) Upon incorporation, the home rule charter of a unified municipality
20 operates to dissolve all municipalities in the area unified in accordance with the
21 charter.

22 * Sec. 12. AS 29.05.190 is amended to read:

23 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
24 UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
25 transition to borough government and to provide for interim governmental operations,
26 each borough or unified municipality incorporated after December 31, 1985, is
27 entitled to organization grants as follows:

28 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial
29 fiscal year;

30 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year;
31 and

1 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

2 (b) The department shall disburse the first organization grant to a borough or
3 unified municipality within 30 days after certification of the [INCORPORATION]
4 election favoring incorporation [OF A BOROUGH], or as soon after that as money is
5 appropriated and available for the purpose. The second grant shall be disbursed within
6 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,
7 or as soon after that as money is appropriated and available for the purpose. The third
8 grant shall be disbursed within 30 days after the beginning of the municipality's
9 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and
10 available for the purpose.

11 (c) This section does not apply to a borough incorporated by consolidation or
12 to a unified municipality that occupies the area formerly occupied by a borough.

13 * Sec. 13. AS 29.05.210 is amended to read:

14 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND
15 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of incorporation
16 of a borough or unified municipality incorporated after December 31, 1985, the
17 department shall determine the population of the borough or unified municipality.

18 (b) The department shall provide assistance to each borough and unified
19 municipality incorporated after December 31, 1985, in

20 (1) establishing the initial sales and use tax assessment and collection
21 department if the borough or unified municipality has adopted a sales or use tax;

22 (2) determining the initial property tax assessment roll if the borough
23 or unified municipality has adopted a property tax, including contracting for
24 appraisals of property needed to complete the initial assessment.

25 (c) This section does not apply to a borough incorporated by consolidation or
26 to a unified municipality that occupies the area formerly occupied by a borough.

27 * Sec. 14. AS 29.06.040(a) is amended to read:

28 (a) The Local Boundary Commission may consider any proposed municipal
29 boundary change. It may reject the proposed change, accept the proposed change, or
30 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A
31 Local Boundary Commission decision under this subsection may be appealed under

1 AS 44.62 (Administrative Procedure Act).

2 * Sec. 15. AS 29.06.090(a) is amended to read:

3 (a) Two or more municipalities may merge or consolidate to form a single
4 general law or home rule municipality, except a third class borough may not be
5 formed through merger or consolidation.

6 * Sec. 16. AS 29.06.100(b) is amended to read:

7 (b) The petition includes
8 (1) the name and class of each existing municipality;
9 (2) the name and class of the proposed municipality;
10 (3) the proposed composition and apportionment of the governing body;
11 (4) maps, documents, and other information that shows that the
12 proposed municipality meets the standards for municipal incorporation;
13 (5) for a home rule municipality, a proposed home rule charter.

14 * Sec. 17. AS 29.06.130(a) is amended to read:

15 (a) If the Local Boundary Commission determines that the proposed
16 municipality fails to meet the standards for incorporation, it shall reject the merger or
17 consolidation petition. If the commission determines that the proposed municipality
18 meets these standards, it may [SHALL] accept the petition or amend [. IF THE
19 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE
20 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE
21 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and
22 accept the petition.

23 * Sec. 18. AS 29.06.140(b) is amended to read:

24 (b) A home rule charter in a merger or consolidation petition submitted
25 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The
26 charter is adopted if the voters approve the merger or consolidation. The director
27 of elections shall supervise the election in the general manner prescribed by AS 15
28 (Election Code). The state shall pay all election costs.

29 * Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:

30 (b) An area that is not incorporated as a borough, including any cities in the
31 area, may incorporate as a unified municipality under AS 29.05.031.

1 * Sec. 20. AS 29.06.470(a) is amended to read:

2 (a) Except as provided in (b) of this section, voters of a municipality may
3 petition for dissolution when the municipality is free of debt, or, if in debt, each of its
4 creditors is satisfied with a method of repayment and

5 (1) the municipality no longer meets the minimum standards prescribed
6 for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

7 (2) the municipality ceases to use each of its mandatory powers; or

8 (3) the dissolution petition filed under AS 29.06.460 is signed by a
9 number of voters of the municipality proposed to be dissolved greater than 50 percent
10 of the number of votes cast in the last regular [GENERAL] election in that
11 municipality.

12 * Sec. 21. AS 29.06.500(a) is amended to read:

13 (a) If the Local Boundary Commission determines that a municipality fails to
14 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION
15 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER
16 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the
17 commission determines that the petition meets the standards under AS 29.06.470(a)(1),
18 (2), or (3) [AS 29.06.470(r)(3)] and that dissolution of the municipality is in the best
19 interest of the state, it shall accept the petition. The commission may amend the
20 proposal and accept the petition.

21 * Sec. 22. AS 29.10.010(c) is amended to read:

22 (c) At an incorporation, merger, or consolidation election a municipality
23 [FOR BOROUGH INCORPORATION, AN AREA IN THE UNORGANIZED
24 BOROUGH] may adopt a charter for its own government and incorporate, merge, or
25 consolidate as a home rule city, borough, or unified municipality.

26 * Sec. 23. AS 29.10.010(f) is amended to read:

27 (f) The proposed charter for a home rule municipality to be formed by
28 incorporation, merger, or consolidation [AN AREA OF THE UNORGANIZED
29 BOROUGH] shall be prepared by the petitioners and filed [UNDER AS 29.05.060]
30 with the petition to incorporate, merge, or consolidate a home rule city, borough, or
31 unified municipality.

1 * Sec. 24. AS 29.10.020 is amended to read:

2 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least
3 one model home rule charter for a city, borough, and unified municipality. The
4 model charters [CHARTER] shall be made available to persons interested in filing a
5 petition to form [INCORPORATE] a home rule municipality [BOROUGH] under
6 AS 29.05.060 or AS 29.06.090.

7 * Sec. 25. AS 29.10.070 is amended to read:

8 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for
9 an existing municipality shall be submitted to the voters at an election held not less
10 than 30 days or more than 90 days after the proposed charter is published. The
11 proposed home rule charter for a home rule municipality to be formed by
12 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED
13 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held
14 under AS 29.05.110 or AS 29.06.140.

15 * Sec. 26. AS 29.10.080(a) is amended to read:

16 (a) If a majority of those voting in an existing municipality favor the proposed
17 charter or if a majority of those voting to form a home rule municipality by
18 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED
19 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE
20 BOROUGH], the proposed charter becomes the organic law of the municipality
21 effective on the date the election is certified. Thereafter, a court shall take judicial
22 notice of the charter. The new home rule municipality shall file the indicated number
23 of copies of the charter with

24 (1) the lieutenant governor - two copies;

25 (2) the department - two copies;

26 (3) the district recorder - one copy;

27 (4) the municipal clerk - one copy.

28 * Sec. 27. AS 29.10.090(b) is amended to read:

29 (b) If incorporation, merger, or consolidation of a home rule municipality
30 [BOROUGH] is rejected by the voters [IN AN AREA IN THE UNORGANIZED
31 BOROUGH], the proposed charter is rejected.

1 * Sec. 28. AS 29.10.100 is amended by adding a new subsection to read:

2 (c) If a charter is amended, the municipality shall file the indicated number of
3 copies of the revised charter with

4 (1) the lieutenant governor - two copies;

5 (2) the department - two copies;

6 (3) the district recorder - one copy;

7 (4) the municipal clerk - one copy.

8 * Sec. 29. AS 44.47.567(a) is amended to read:

9 (a) The local boundary commission shall

10 (1) make studies of local government boundary problems;

11 (2) adopt regulations providing [DEVELOP PROPOSED] standards
12 and procedures for municipal incorporation, annexation, detachment, merger,
13 consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY
14 LINES];

15 (3) consider a local government boundary change requested of it by the
16 legislature, the commissioner of community and regional affairs, or a political
17 subdivision of the state; and

18 (4) develop standards and procedures for the extension of services and
19 ordinances of incorporated cities into contiguous areas for limited purposes upon
20 majority approval of the voters of the contiguous area to be annexed and prepare
21 transition schedules and prorated tax mill levies as well as standards for participation
22 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
23 services.

24 * Sec. 30. AS 29.04.040(c) and AS 29.10.010(b) are repealed.