

SB

164

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						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

PREPARER TO PROV
For further d

FISCAL NOTE

ERNOR'S LEGISLATIVE OFFICE
or's Legislative Office

SECTIONAL ANALYSIS

CSSB 164(CRA)

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

Sectional analysis prepared January 27, 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(CRA) 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 one of the two.

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; b) an area which has one or more city governments, but no organized borough; or c) an area which has an organized borough, but no city governments.

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 discretion and 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

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 has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in 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, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.

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.)

borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

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.

Sections 22 - 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 22** 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 23** provides that a proposed charter for a home rule municipal government is to be filed with the petition for incorporation, merger or consolidation. **Section 24** requires the Department of Community and Regional Affairs to prepare a model charter for a home rule city and a unified municipality. **Section 25** 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 26** 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 27** states that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government the charter is rejected. **Section 28** requires a home rule municipality to file a copy of any amendments to its charter with certain officials.⁸

Section 29 removes any question that the Local Boundary Commission has legislative authority to adopt regulations providing standards and procedures for municipal incorporation and dissolution.⁹

Section 30 makes the following changes:

1. It repeals the requirement that a city council hold a public hearing on a proposed reclassification of the city.¹⁰
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.¹¹

⁸ 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.

⁹ 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.

¹⁰ Section 2 of CSSB 164(CRA) requires the Local Boundary Commission to conduct such a hearing.

¹¹ The current law applies to only one of Alaska's 116 second class cities.

8-LS08370

Cook

2/4/94

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:

Referred:

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 [CHARTER] 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 voter; [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.

STATE COMMITTEE REPORT

DATE: 4/26/93

FURTHER:

DATE TURNED INTO OFFICE: 2/25/94

JUDICIARY Committee considered SENATE BILL NO. 164

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

and recommends:

replace with _____ CS SB 164 (JUD)

or adopt previous _____ CS _____

attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<u>Lawrence Reg. Aff.</u>	<u>1/31/94</u>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

David Donly (NO REC)
Shiranne Little no rec
Gregory

Adrian L. Taylor 0-1700
 Chair: Signature and Recommendation

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(CRA)*

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Summary prepared January 27, 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 has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in dealing with 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, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.
- ❖ **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(CRA), see the three-page "Sectional Analysis of CSSB 164(CRA)" prepared by DCRA on January 27, 1994.