

LEG. FINANCE - BILLS 1985 - 1986 2317
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1 money shall be allocated on the basis of priority established by
2 regulations of the Department of Commerce and Economic Development.

3 Sec. 29.60.440. LIMITATION. AS 29.60.400 - 29.60.440 does not
4 require that a recipient of a grant for a feasibility study must
5 proceed with construction of the project, regardless of whether the
6 project is determined to be feasible.

7 * Sec. 17. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 65. GENERAL GRANT LAND.

9 Sec. 29.65.010. DETERMINATION OF ENTITLEMENT OF BOROUGH AND
10 UNIFIED MUNICIPALITIES. (a) The general grant land entitlement of
11 each of the municipalities in this section is the amount set out
12 opposite each:

- 13 (1) Municipality of Anchorage - 44,893 acres;
- 14 (2) City and Borough of Juneau - 19,584 acres;
- 15 (3) City and Borough of Sitka - 10,500 acres;
- 16 (4) Bristol Bay Borough - 2,898 acres;
- 17 (5) Fairbanks North Star Borough - 112,000 acres;
- 18 (6) Haines Borough - 2,870 acres;
- 19 (7) Kenai Peninsula Borough - 155,780 acres;
- 20 (8) Ketchikan Gateway Borough - 11,593 acres;
- 21 (9) Kodiak Island Borough - 56,500 acres;
- 22 (10) Matanuska-Susitna Borough - 355,210 acres;
- 23 (11) North Slope Borough - 89,850 acres.

24 (b) This section is a continuation of the provisions of former
25 AS 29.18.201 and does not grant additional entitlements.

26 Sec. 29.65.020. DETERMINATION OF ENTITLEMENT FOR CITIES. (a)
27 The general grant land entitlement of a city formerly eligible to
28 receive general grant land under the provisions of former AS 29.18.190
29 and 29.18.200 is 10 percent of the maximum total acreage of vacant,

1 unappropriated, unreserved land in the boundaries of each city at any
2 time between the initial date of eligibility under former AS 29.18.190
3 and 29.18.200 and July 1, 1978. Within six months after July 1, 1978,
4 the director shall determine the entitlement for each city eligible to
5 receive general grant land under former AS 29.18.202 and certify that
6 entitlement to the city.

7 (b) This section is a continuation of the provisions of former
8 AS 29.18.203 and does not grant additional entitlements to cities
9 incorporated before January 1, 1986.

10 Sec. 29.65.030. DETERMINATION OF ENTITLEMENT FOR NEWLY INCOR-
11 PORATED MUNICIPALITIES. (a) The general grant land entitlement of a
12 municipality incorporated after July 1, 1978, is 10 percent of the
13 total acreage of vacant, unappropriated, unreserved land within the
14 boundaries of the municipality on the date of its incorporation.

15 (b) Within six months after the date of incorporation of a muni-
16 cipality that is incorporated after July 1, 1978, the director shall
17 determine the entitlement of each municipality eligible to receive
18 general grant land under (a) of this section and certify the entitle-
19 ment to the municipality.

20 (c) This section is a continuation of the provisions of former
21 AS 29.18.203 and does not grant additional entitlements to
22 municipalities incorporated before January 1, 1986.

23 Sec. 29.65.040. STATUS OF ENTITLEMENTS. (a) After July 1,
24 1978, general grant land entitlements provided in former AS 29.18.201
25 and former AS 29.18.202 are vested property rights that must be
26 fulfilled as provided in AS 29.65.050 or 29.65.080.

27 (b) General grant land entitlements provided by AS 29.65.030 are
28 property rights that vest on the date of incorporation of the muni-
29 cipality. The entitlement must be fulfilled as provided in

1 AS 29.65.050.

2 (c) Land may be selected or nominated for selection by a municipi-
3 pality to satisfy a general grant land entitlement under former
4 AS 29.18.201 and 29.18.202 at any time before October 1, 1980. How-
5 ever, if a municipal selection or nomination or a part of a municipal
6 selection or nomination is rejected by the director, the municipality
7 may, not later than 90 days after receipt of the rejection, select
8 additional state land as necessary to satisfy its entitlement.

9 (d) Land may be selected by a municipality to satisfy a general
10 grant land entitlement under AS 29.65.030 at any time within one year
11 after the director certifies the entitlement to the municipality.

12 (e) The time limitations imposed by (c) and (d) of this section
13 for exercising a vested general grant land entitlement do not apply to

14 (1) the portion of an entitlement that cannot be satisfied
15 by that date because of a shortage of land suitable for residential,
16 commercial, and industrial purposes that is vacant, unappropriated,
17 unreserved land;

18 (2) payments for land deficiency under AS 29.65.080;

19 (3) the portion of an entitlement that cannot be satisfied
20 because the land selected by a municipality has been selected by a
21 party entitled to select land owned by the United States or the state;
22 or

23 (4) the portion of an entitlement that cannot be satisfied
24 because the land nominated for selection by the municipality is not
25 tentatively approved for patent to the state.

26 Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS. (a) The
27 acreage of each municipality's land selections for which patent has
28 been issued before July 1, 1978, shall be credited toward fulfillment
29 of the entitlement of that municipality.

1 (b) All approved selections under former AS 29.18.190 and 29.-
2 18.200 for which patent has not been issued to a municipality on
3 July 1, 1978, shall be reviewed by the director within nine months
4 after July 1, 1978. Any approved selection of land that was vacant,
5 unappropriated, or unreserved on the date of selection is valid as of
6 the date of the approval under former AS 29.18.190 and 29.18.200, and
7 a patent shall be issued to the municipality within three months after
8 approval by the director of a plat of survey. The acreage shall be
9 credited toward fulfillment of the municipality's entitlement. A
10 municipality is not entitled to receive patent under this chapter to
11 more than its entitlement determined under AS 29.65.010 - 29.65.030.
12 Any prior approval by the director of municipal selections for land
13 that was not vacant, unappropriated, or unreserved on the date of
14 selection shall be rescinded, and patent may not be issued except when
15 disposal to a third party by sale or lease has occurred. Transfers of
16 land to municipalities under this chapter are subject to AS 38.05.321.
17 Classification actions as reflected on the land status records of the
18 Department of Natural Resources are determinative of land classifica-
19 tion status for purposes of this chapter.

20 (c) The director shall approve each selection for patent within
21 nine months of its selection by a municipality, and a patent shall be
22 issued to the municipality for land selected in satisfaction of a
23 general grant land entitlement vested under AS 29.65.010 - 29.65.030
24 within three months after approval by the director of a plat of sur-
25 vey.

26 Sec. 29.65.060. SCHOOL AND MENTAL HEALTH LAND. (a) If an
27 entitlement determined under AS 29.65.010 or 29.65.020 results in a
28 per capita entitlement for the municipality of less than one and
29 one-half acre, the municipality may select vacant school or mental

1 health land in the municipality in partial fulfillment of its land
2 entitlement under this chapter. School or mental health land may be
3 selected notwithstanding the fact that this land is not unappropriated
4 and unreserved within the meaning of this chapter and under former
5 AS 29.18.190 and 29.18.200, but each selection of school or mental
6 health land by a municipality must be vacant, unappropriated, or
7 unreserved land as defined in this chapter, except that it need not be
8 general grant land.

9 (b) The acreage of school, university or mental health land, if
10 any, in a municipality may not be included in the determination of
11 entitlement under AS 29.65.010 or 29.65.020.

12 (c) Land conveyed under this section will be credited against a
13 municipality's remaining land entitlement under this chapter.

14 (d) Within six months after approval of a municipal selection of
15 school or mental health land, the director shall identify state
16 general grant land of approximately equal value to the land requested
17 by the municipality and shall propose the replacement land for the
18 concurrence of the appropriate board. If a proposal by the director
19 is rejected by the board, the director shall meet with the board as
20 often as necessary to determine the type and amount of equal value
21 replacement land that would be required to obtain the board's concur-
22 rence, and shall propose the replacement land for consideration by the
23 board. The replacement land shall thereafter be managed for the pur-
24 poses for which the land selected by the municipality was acquired by
25 the Territory and State of Alaska.

26 (e) The notice provisions of AS 38.05.945 apply to the designa-
27 tion of other general grant land as school, university or mental
28 health land in replacement of land selected under this section. The
29 provisions of AS 38.50 do not apply to such designations under this

1 section.

2 (f) For purposes of determining the per capita entitlement under
3 (a) of this section, the population of a municipality shall be the
4 population determined by the commissioner under former AS 43.18.010
5 for the program year beginning July 1, 1978, for a municipality whose
6 entitlement was determined under former AS 29.18.201 or 29.18.202.

7 Sec. 29.65.070. SELECTION AND CONVEYANCE PROCEDURE. (a) If
8 land selected by a municipality is unsurveyed at the time of approval,
9 the director shall survey, or may approve the municipality's survey
10 of, the exterior boundaries of an approved selection without interior
11 subdivision, and shall issue patent in terms of the exterior boundary
12 survey. The cost of the survey shall be borne by the municipality.
13 If land selected by a municipality has been surveyed at the time of
14 its selection, the boundaries shall conform to the public land subdivi-
15 sions established by the approved survey.

16 (b) The director may approve municipal selections of land that
17 have been tentatively approved or patented to the state by the federal
18 government but may not issue patent to a municipality until the land
19 has first been patented to the state. After approval of a selection
20 by the director, but before patent to a municipality, the municipality
21 may execute conditional leases and make conditional sales only with
22 the consent of the director. Conditional sales and conditional leases
23 made before July 1, 1978, do not require the consent of the director.

24 (c) Nothing in this chapter affects a valid existing claim,
25 location, or entry under the laws of the state or the United States
26 whether for homestead, mineral, right-of-way, or other purposes.
27 Nothing in this chapter affects the rights of an owner, claimant,
28 locater, or entryman to the full use and enjoyment of the land so
29 occupied.

1 Sec. 29.65.080. PAYMENT FOR LAND DEFICIENCY. (a) The Alaska
2 municipal land account is established in the general fund for the
3 following purposes:

4 (1) providing payment to the boroughs and unified muni-
5 cipalities designated in AS 29.65.010 for a deficiency of land phys-
6 ically suitable for residential, commercial, or industrial purposes;
7 or

8 (2) providing payment to the boroughs and unified muni-
9 cipalities designated in AS 29.65.010 for certain general grant lands
10 selected by the state and conveyed to a Native corporation under the
11 provisions of the Alaska Native Claims Settlement Act.

12 (b) A municipality shall receive payment for its land deficiency
13 from the municipal land account. A municipality is eligible to re-
14 ceive payment for land deficiency if, after July 1, 1980, the amount
15 of land selected by a municipality that is physically suitable for
16 residential, commercial, or industrial purposes amounts to less than
17 one-third acre per capita. Any entitlement under AS 29.65.010 that is
18 less than one-third acre per capita will, for the purposes of this
19 subsection, be considered a land deficiency. An unselected remaining
20 entitlement will, for the purpose of deficiency payment under this
21 subsection, be considered as land physically suitable for residential,
22 commercial, or industrial purposes. A municipality eligible under
23 this subsection is entitled to receive a payment for land deficiency
24 equal to \$1,000 per acre for a number of acres equal to the difference
25 between one-third of the population of the municipality less the
26 number of acres physically suitable for residential, commercial or
27 industrial purposes that has been selected by the municipality. For
28 the purpose of this subsection, the population of the municipality
29 shall be the population determined in accordance with AS 29.65.060(f).

1 No payment may be made to a municipality under this subsection in
2 excess of \$9,000,000.

3 (c) If a municipality selected vacant, unappropriated, unre-
4 served land on or before December 18, 1971, to which the state had
5 received tentative approval or patent, and that land was also selected
6 by a Native corporation organized under the Alaska Native Claims
7 Settlement Act (P.L. 92-203), and title to that land is ultimately
8 vested in that Native corporation, the municipality may, at its op-
9 tion, request payment for land deficiency from the municipal land
10 account. The acceptance of payment under this subsection by a muni-
11 cipality constitutes a relinquishment of any other right, title, or
12 claim to the land by that municipality. The total payment to a muni-
13 cipality under this subsection may not exceed \$1,000 per acre to a
14 maximum of 8,000 acres.

15 (d) The governor shall annually submit to the legislature a
16 request for an appropriation to the municipal land account for the
17 municipalities that have elected to receive payments under (b) or (c)
18 of this section. The request for appropriation shall distinguish
19 between amounts necessary to make payments for land deficiency under
20 (b) of this section and those required to make payments for land
21 deficiency under (c) of this section.

22 (e) For purposes of fulfilling entitlements under this section,
23 the legislature is authorized to appropriate

24 (1) not more than \$4,000,000 per fiscal year, and not more
25 than \$12,000,000 in total, for the purpose of paying entitlements
26 under (b) of this section;

27 (2) not more than \$1,000,000 per fiscal year, and not more
28 than \$8,000,000 in total, for the purpose of paying entitlements under
29 (c) of this section.

1 (f) If an annual appropriation is not sufficient to meet the
2 amount due to all municipalities that have elected to accept payment
3 for land deficiency under (b) or (c) of this section, the governor
4 shall apportion the appropriation among the municipalities in propor-
5 tion to the payment calculated for each municipality for that year.
6 When a distribution of payments is made under (c) of this section, the
7 remaining entitlement of a municipality to which payment is made shall
8 be reduced in an amount equal to the number of acres for which payment
9 was received. An appropriation made under this section is in addition
10 to other grants and entitlements authorized to eligible municipali-
11 ties.

12 (g) Payments authorized by this section may not be made to a
13 municipality eligible for an entitlement under AS 29.65.020 or 29.65.-
14 030.

15 (h) Payments made under this section shall be used by a muni-
16 cipality that levies property taxes to reduce the levy in proportion
17 to the amount of state payments received by the municipality for a
18 given fiscal year. The governing body of each municipality shall
19 furnish a notice with the tax statement describing the effect on
20 property tax levies of payments received under this section.

21 Sec. 29.65.090. AUTHORIZATION FOR LAND EXCHANGES. The director,
22 and a municipality are authorized to exchange land or interests in
23 land when it is in the public interest. Land or interests in land
24 exchanged under this section must be of approximately equal value,
25 including the nonmonetary value of public benefits. Exchange
26 procedures shall comply with applicable law and municipal ordinances.
27 The notice and review provisions of AS 38.05.945 apply to exchanges of
28 land under this section. The provisions of AS 38.50 do not apply to
29 exchanges of land under this section.

1 Sec. 29.65.100. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Con-
2 sistent with the best interests of the state, if a municipality does
3 not contain and cannot reasonably acquire sufficient nonfederal land
4 within its boundaries to meet its legitimate needs for public or
5 private settlement or development, it is the policy of the state to
6 select federal land reasonably necessary to meet the needs of the
7 municipality and to make the land selected available to the municipal-
8 ity under AS 38.05.810 or (b) of this section.

9 (b) The state may contract with a municipality to act as its
10 agent in an auction of state land under applicable statutes. When a
11 municipality acts as the agent of the state in an auction, the munici-
12 pality may retain from the proceeds of the auction the capital and
13 other expenses that the director determines to be necessary and
14 reasonable.

15 (c) Nothing in this chapter limits or impairs the authority of
16 the director to transfer land to municipalities, without limit or
17 consideration, for public purposes in accordance with AS 38.05.810.
18 If there is a remaining entitlement of the municipality, land trans-
19 ferred under AS 38.05.810 shall be credited toward fulfillment of the
20 entitlement.

21 Sec. 29.65.110. ELECTION OF BENEFITS. (a) A municipality that
22 on July 1, 1978, was engaged in litigation, or that becomes engaged in
23 litigation, regarding a claim to state land under former AS 29.18.190
24 or 29.18.200 shall elect either to obtain the benefits provided in
25 this chapter or to pursue the litigation and waive any claim to en-
26 titlement under this chapter. An election shall be made by filing a
27 motion for dismissal with prejudice in the court in which the litiga-
28 tion is pending. If the claim involves a municipality identified in
29 AS 29.65.010, the municipality shall file its motion for dismissal

1 within 60 days after July 1, 1978. If a claim involves a city eligi-
2 ble to receive an entitlement under AS 29.65.020, the city shall file
3 its motion for dismissal within 60 days after receiving the certifi-
4 cate of entitlement provided by the director under AS 29.65.020.
5 Failure of the municipality to file a motion for dismissal during the
6 time period provided in this subsection is considered a waiver of
7 entitlement under this chapter.

8 (b) A municipality that was eligible to file land selections
9 under former AS 29.18.190 or 29.18.200 and that does not enter into
10 litigation over a claim to rights under those sections before the
11 expiration of the time period within which it could make an election
12 under (a) of this section is considered to have elected to receive
13 benefits under this chapter and to have waived any claim that might
14 have been raised under former AS 29.18.190 or 29.18.200.

15 (c) The provisions of this chapter do not affect the rights of a
16 party to litigation regarding former AS 29.18.190, 29.18.200 or
17 29.18.420 maintained by a municipality that has elected not to obtain
18 the benefits provided by this chapter.

19 Sec. 29.65.120. ADMINISTRATION. The commissioner of natural
20 resources may adopt regulations in accordance with the Administrative
21 Procedure Act (AS 44.62) necessary to carry out the purposes of this
22 chapter.

23 Sec. 29.65.130. DEFINITIONS. In this chapter, unless the con-
24 text otherwise requires,

25 (1) "approved selection" means a municipal land selection
26 that has been approved in writing by the director for transfer by
27 patent to a municipality;

28 (2) "director" means the director of lands, Department of
29 Natural Resources;

- 1 (3) "general grant land"
- 2 (A) means land patented or tentatively approved to the
- 3 state from the United States under sec. 6(a) or (b) of the Alaska
- 4 Statehood Act;
- 5 (B) does not include university land;
- 6 (4) "mental health land" means land granted under Title II,
- 7 sec. 202 of P.L. 84-830, as amended before or after July 1, 1978;
- 8 (5) "municipal land selection" means a request by a munici-
- 9 pality, filed in writing with the director under authority of former
- 10 AS 29.18.190 and 29.18.200 or under this chapter for vacant, unappro-
- 11 priated, unreserved general grant land within its municipal boundaries
- 12 in partial fulfillment of its municipal entitlement;
- 13 (6) "patent" means a document, issued by the director to a
- 14 municipality for a previously approved selection, that conveys and
- 15 quitclaims all the right, title, and interest of the state without
- 16 reservation or condition except as may be required by law;
- 17 (7) "remaining entitlement" means the general grant land
- 18 entitlement determined in accordance with this chapter, reduced by the
- 19 total acreage of approved selections, including both patented and un-
- 20 patented parcels;
- 21 (8) "school land" means those rectangular sections 16 and
- 22 36 within each township surveyed on or before January 3, 1959, and
- 23 confirmed and transferred to the State of Alaska upon its admission
- 24 under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other
- 25 land designated solely for school revenues;
- 26 (9) "university land" has the meaning given in
- 27 AS 38.05.365;
- 28 (10) "vacant, unappropriated, unreserved land" means general
- 29 grant land as defined in (3) of this section, excluding minerals as

1 required by sec. 6(i) of the Alaska Statehood Act, that

2 (A) has not been set aside by statute for one or more
3 particular uses or purposes;

4 (B) has not been approved for patent to a municipality
5 under this chapter or former AS 29.18.190 and 29.18.200; or

6 (C) is unclassified or, if classified under AS 38.05.-
7 300, is classified for agricultural, grazing, commercial, indus-
8 trial, private recreational, residential, utility, or open-to-
9 entry purposes, or is classified in accordance with an agreement
10 between a municipality and the state providing for state manage-
11 ment of land of the municipality.

12 Sec. 29.65.140. APPLICATION. This chapter applies to home rule
13 and general law municipalities.

14 * Sec. 18. AS 29 is amended by adding a new chapter to read:

15 CHAPTER 71. GENERAL PROVISIONS.

16 Sec. 29.71.010. ADVERSE POSSESSION. A municipality may not be
17 divested of title to real property by adverse possession.

18 Sec. 29.71.020. DEDICATION OF MUNICIPAL PROPERTY. Dedication of
19 streets, rights-of-way, easements or other areas for public use may
20 not be construed to require the municipality to maintain, improve or
21 provide for municipal services in the area dedicated and the dedica-
22 tion does not impose any liability on the municipality for the condi-
23 tion of the area dedicated.

24 Sec. 29.71.030. TAXATION OF MUNICIPALITIES. No state law or
25 regulation may assess or tax, or be construed to assess or tax, a
26 municipality unless the law or regulation expressly provides that the
27 municipality is to be assessed or taxed by the particular law or
28 regulation.

29 Sec. 29.71.800. DEFINITIONS. In this title, unless otherwise

- 1 provided or the context otherwise requires,
- 2 (1) "areawide" means throughout a borough, both inside and
3 outside all cities in the borough;
- 4 (2) "assembly" means the governing body of a borough;
- 5 (3) "borough" means a general law borough or a home rule
6 borough;
- 7 (4) "city" means a general law first or second class city
8 or a home rule city;
- 9 (5) "commissioner" means the commissioner of community and
10 regional affairs;
- 11 (6) "consolidation" means dissolution of two or more muni-
12 cipalities and their incorporation as a new municipality;
- 13 (7) "council" means the governing body of a city;
- 14 (8) "department" means the Department of Community and
15 Regional Affairs;
- 16 (9) "election" means a regular or special municipal elec-
17 tion and does not include a state election;
- 18 (10) "governing body" means the legislative body of a muni-
19 cipality that is the assembly of a borough or the council of a city;
- 20 (11) "majority" means a simple majority;
- 21 (12) "merger" means dissolution of a municipality and its
22 absorption by another municipality;
- 23 (13) "municipality" means a political subdivision incor-
24 porated under the laws of the state that is a home rule or general law
25 city, a home rule or general law borough, or a unified municipality;
- 26 (14) "nonareawide" means throughout the area of a borough
27 outside all cities in the borough;
- 28 (15) "owner" or "record owner" means the owner of record or
29 purchaser of record as shown in the records of the district recorder;

1 (16) "personal property" means tangible property other than
2 real property, such as merchandise, stock in trade, machinery, equip-
3 ment, furniture, fixtures, vehicles, boats, and aircraft;

4 (17) "property" means real and personal property;

5 (18) "published" means appearing at least once in a news-
6 paper of general circulation distributed in the municipality or, if
7 there is no newspaper of general circulation distributed in the muni-
8 cipality, posting in three public places for at least five days;

9 (19) "real property" means land and improvements, all pos-
10 sessory rights and privileges appurtenant to the property, and in-
11 cludes personal property affixed to the land or improvements;

12 (20) "regular election" means the municipal election held on
13 the first Tuesday of October annually, or on a different date or
14 interval of years provided by ordinance or charter;

15 (21) "special election" means a municipal election and does
16 not include a regular election or a state election;

17 (22) "street" includes streets, avenues, boulevards, roads,
18 lanes, alleys, and other ways;

19 (23) "subdivision"

20 (A) means the division of a parcel of land into two or
21 more lots or other divisions for the purpose of sale or building
22 development, includes resubdivision, and relates to the process
23 of subdividing or to the land subdivided;

24 (B) does not include cadastral plats, cadastral con-
25 trol plats, open-to-entry plats, or remote parcel plats created
26 by or on behalf of the state regardless of whether these plats
27 include easements or other public dedications;

28 (24) "unified municipality" means a municipality unified in
29 accordance with AS 29.06.190 - 29.06.410;

1 (25) "voter" means a United States citizen who is qualified
2 to vote in state elections, has been a resident of the municipality
3 for 30 days immediately preceding the election, is registered to vote
4 in state elections, and is not disqualified under art. V of the state
5 constitution.

6 * Sec. 19. AS 01.10.060 is amended by adding a new paragraph to read:

7 (15) "municipality" means a political subdivision incor-
8 porated under the laws of the state that is a home rule or general law
9 city, a home rule or general law borough, or a unified municipality.

10 * Sec. 20. AS 05.35.040 is amended to read:

11 Sec. 05.35.040. POWER OF MUNICIPALITY. A municipality may own,
12 maintain and employ a facility constructed under AS 05.35.010 -
13 05.35.070. The exercise of this power on an areawide basis is at the
14 option of the borough and is not subject to the restrictions on ac-
15 quiring additional areawide powers in AS 29.35.300 - 29.35.330
16 [AS 29.33.250 - 29.33.290].

17 * Sec. 21. AS 09.45.845 is amended to read:

18 Sec. 09.45.845. VACATING OF STREETS IN WHOLE OR IN PART. The
19 vacating of streets in whole or in part by the voluntary action of a
20 municipality, for the purpose of making it possible for the court to
21 mitigate the hardships suffered by individuals because of the change
22 in land boundaries caused by the act of God, consisting of an earth-
23 slide, can be accomplished by the offer of the municipality expressed
24 in the complaint followed by the court's approval of it in the action
25 authorized in AS 09.45.800 - 09.45.880, without other formalities.
26 This provision is a special emergency substitute for the provisions
27 contained in AS 29.40.120 - 29.40.160 [AS 29.33.200 - 29.33.240].

28 * Sec. 22. AS 09.55.275 is amended to read:

29 Sec. 09.55.275. REPLAT APPROVAL. No agency of the state or

1 municipality may acquire property located within a municipality exer-
2 cising the powers conferred by AS 29.35.180 or 29.35.260(c) that
3 [AS 29.33.150 - 29.33.245 WHICH] results in a boundary change unless
4 the agency or municipality first obtains from the municipal platting
5 authority preliminary approval of a replat showing clearly the loca-
6 tion of the proposed public streets, easements, rights-of-way, and
7 other taking of private property. Final approval of replat shall be
8 similarly obtained. However, if a state agency clearly demonstrates
9 an overriding state interest, a waiver to the approval requirements of
10 this section may be granted by the governor. The platting authority
11 shall treat applications for replat made by state or local govern-
12 mental agencies in the same manner as replat petitions originated by
13 private landowners.

14 * Sec. 23. AS 09.65.070(e)(1) is amended to read:

15 (1) "municipality" has the meaning given in AS 01.10.-
16 060 and [MEANS A HOME RULE BOROUGH OR CITY, A GENERAL LAW BOROUGH OR
17 CITY OF ANY CLASS, A UNIFIED MUNICIPALITY ESTABLISHED UNDER AS 29.-
18 68.240 - 29.68.440, OR A MUNICIPALITY ESTABLISHED BY MERGER OR CON-
19 SOLIDATION UNDER AS 29.68.030 - 29.68.110; THE TERM] includes a public
20 corporation established by a municipality;

21 * Sec. 24. AS 14.08.071(b) is amended to read:

22 (b) Except for the first election of regional school members
23 under (a) of this section, elections [ELECTION] shall be held annually
24 on the first Tuesday in October. Elections shall be supervised by the
25 director of elections in the office of the lieutenant governor, but
26 shall be administered within second class cities as part of the regular
27 municipal election. The lieutenant governor shall adopt [PROMULGATE]
28 regulations for the conduct of the election of regional school board
29 members comparable, as far as practicable, to those prescribed for

1 election of school board members under AS 14.12 and AS 29.20.300
2 [AS 29.28] except that the majority election requirements of AS 29.-
3 26.060 [AS 29.28.040] do not apply to, nor may the regulations require
4 runoff elections for, the first election of regional school board
5 members under (a) of this section or, if a school board by resolution
6 so requests, to subsequent elections in the regional educational
7 attendance area served by that school board.

8 * Sec. 25. AS 14.08.081 is amended to read:

9 Sec. 14.08.081. RECALL. The members of a regional school board
10 are subject to recall in accordance with AS 29.26.240 - 29.26.360
11 [AS 29.28.130 - 29.28.250], except that the director of the division
12 of elections shall perform the functions of a municipal clerk, and the
13 lieutenant governor shall perform the functions of the assembly or
14 council under those sections.

15 * Sec. 26. AS 14.12.030(c) is amended to read:

16 (c) The [NOTWITHSTANDING THE] provisions of (a) and (b) of this
17 section do not apply if [, WHERE] the [BOROUGH] assembly serves as the
18 school board of the borough school district [UNDER AS 29.41.020 THE
19 NUMBER OF MEMBERS OF THE ASSEMBLY-SCHOOL BOARD SHALL BE DETERMINED IN
20 THE MANNER PRESCRIBED BY AS 29.23.020].

21 * Sec. 27. AS 14.12.110 is amended to read:

22 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD. Not-
23 withstanding the provisions of this chapter or other law, a single
24 body may serve as both the [BOROUGH] assembly and [BOROUGH] school
25 board in the manner provided for third class boroughs under AS 29.20.-
26 300(b) [AS 07.17.030], if

27 (1) an [A BOROUGH] ordinance for that purpose is approved
28 by the assembly and ratified by a referendum of a majority of the
29 qualified borough voters voting on the question at a regular or

1 special election; [,] and

2 (2) [IF] the public school population within the borough is
3 500 pupils or less.

4 * Sec. 28. AS 14.14.020 is amended to read:

5 Sec. 14.14.020. BOND REQUIRED. Before the officer responsible
6 for custody [OF], investment, or management of school district money
7 enters upon the duties of office, the district, or the municipality if
8 the treasury is centralized, shall obtain a bond with sufficient
9 sureties in an amount equal to the money that may come into the offi-
10 cer's official custody, but not to exceed \$50,000. The bond shall be
11 conditioned on the officer's honest and faithful disbursement and
12 accounting of all money that may come into the official custody of the
13 officer. The bond shall be filed with the clerk of the school board.
14 This section does not apply to an officer who has been bonded under
15 AS 29.20.610 [AS 29.23.520].

16 * Sec. 29. AS 14.14.050(d) is amended to read:

17 (d) The school board shall not make the audit if an audit that
18 [WHICH] satisfies the requirements of this section and that [WHICH] is
19 filed and posted as required by this section [,] is made according to
20 AS 29.35.110 [AS 29.48.220].

21 * Sec. 30. AS 14.17.140(a) is amended to read:

22 (a) The Department of Community and Regional Affairs, in
23 consultation with the assessor for each district, shall determine the
24 full value of the taxable real and personal property in each district.
25 Exemptions granted under AS 43.25 shall be honored. If there is no
26 local assessor or current local assessment for a district, then the
27 Department of Community and Regional Affairs shall make the deter-
28 mination of full value from information available. In making the
29 determination, the Department of Community and Regional Affairs shall

1 be guided by AS 29.45.110 [AS 29.53.060]. The determination of full
2 value shall be made before October 1 and sent by certified mail,
3 return receipt requested, before that date to the president of the
4 school board in each district. Duplicate copies shall be sent to the
5 commissioner. The governing body of the municipality that [BOROUGH OR
6 CITY WHICH] is the district may obtain judicial review of the deter-
7 mination by filing a motion in the superior court of the judicial
8 district in which the district is located within 30 days after receipt
9 of the determination. The superior court may modify the determination
10 of the Department of Community and Regional Affairs only upon a find-
11 ing of abuse of discretion or upon a finding that there is no substan-
12 tial evidence to support the determination.

13 * Sec. 31. AS 15.13.010(a) is amended to read:

14 (a) This chapter applies in every election for governor, lieu-
15 tenant governor, a member of the state legislature, a delegate to a
16 constitutional convention, or judge seeking electoral confirmation.
17 It also applies to every candidate for election to a municipal office
18 in a municipality [CITY OR BOROUGH] with a population of more than
19 1,000 inhabitants according to the latest United States census figures
20 or estimates of population certified as correct for administrative
21 purposes by the Department of Community and Regional Affairs. A
22 municipality may exempt its elected municipal officers from the re-
23 quirements of this chapter if a majority of the voters voting on the
24 question at a [ANY] regular election, as defined by AS 29.71.800(20)
25 [AS 29.78.010(14)], or a special municipality-wide election called for
26 that purpose, vote to exempt its elected municipal officers from the
27 requirements of this chapter. The question of exemption from the
28 requirements of this chapter may be submitted by the governing body
29 [CITY COUNCIL OR BOROUGH ASSEMBLY] by ordinance or by initiative

1 election [ORDINANCE]. Nothing in this chapter prohibits a municipal-
2 ity from regulating by ordinance campaign contributions and expendi-
3 tures.

4 * Sec. 32. AS 15.13.120(f)(3) is amended to read:

5 (3) AS 29.20.170 [AS 29.23.060(c)], if the candidate is a
6 candidate for the borough assembly;

7 * Sec. 33. AS 15.13.120(f)(4) is amended to read:

8 (4) AS 29.20.280 [AS 29.23.130(f)], if the candidate is a
9 candidate for borough mayor;

10 * Sec. 34. AS 15.13.120(f)(5) is amended to read:

11 (5) AS 29.20.170 [AS 29.23.210(b)], if the candidate is a
12 candidate for city council;

13 * Sec. 35. AS 15.13.120(f)(6) is amended to read:

14 (6) AS 29.20.280 [AS 29.23.255], if the candidate is a
15 candidate for city mayor;

16 * Sec. 36. AS 15.56.110(b)(2) is amended to read:

17 (2) a member of the borough assembly [ASSEMBLYMAN] under
18 AS 29.20.170(6) [AS 29.23.060(c)];

19 * Sec. 37. AS 15.56.110(b)(3) is amended to read:

20 (3) a borough mayor under AS 29.20.280(6) [AS 29.23.130-
21 (f)];

22 * Sec. 38. AS 15.56.110(b)(4) is amended to read:

23 (4) a member of the city council [COUNCILMAN] under AS 29.-
24 20.170(6) [AS 29.23.210(b)];

25 * Sec. 39. AS 15.56.110(b)(5) is amended to read:

26 (5) a city mayor under AS 29.20.280(6) [AS 29.23.255];

27 * Sec. 40. AS 16.20.036(g) is amended to read:

28 (g) The establishment of a refuge under this section does not
29 impair or alter existing rights of a municipality [BOROUGH OR CITY] to

1 state land selected [SELECT STATE LAND] under former AS 29.18.190 -
2 29.18.200.

3 * Sec. 41. AS 16.20.038(g) is amended to read:

4 (g) The establishment of a refuge under this section does not
5 impair or alter existing rights of a municipality [BOROUGH OR CITY] to
6 state land selected [SELECT STATE LAND] under former AS 29.18.190 -
7 29.18.200.

8 * Sec. 42. AS 18.26.25G(2) is amended to read:

9 (2) municipality [MUNICIPAL CORPORATION OR POLITICAL SUB-
10 DIVISION OF THE STATE AS THE TERMS ARE USED IN AS 29];

11 * Sec. 43. AS 18.80.290(d) is amended to read:

12 (d) The governing [LEGISLATIVE] body of a general law or home
13 rule municipality has the authority under AS 29.20.320 [AS 29.48.035]
14 to grant to local commissions powers and duties similar to those
15 exercised by the Alaska Human Rights Commission under the provisions
16 of this chapter [ACT].

17 * Sec. 44. AS 19.30.241(2) is amended to read:

18 (2) "home rule city" means a city as defined in AS 29.04.-
19 010 [AS 29.08.010];

20 * Sec. 45. AS 19.30.241(3) is amended to read:

21 (3) "local government" means an organized borough of any
22 class, a unified municipality [ORGANIZED UNDER AS 29.68.240 - 29.68.-
23 440], a home rule city, or a first class city [OF THE FIRST CLASS];

24 * Sec. 46. AS 19.30.260 is amended to read:

25 Sec. 19.30.260. PURPOSE. The purpose of AS 19.30.260 -
26 19.30.320 is to facilitate funding for the upgrading, reconstruction,
27 rehabilitation, or paving of existing subdivision roads within a road
28 maintenance service area established under AS 29.35.450 [AS 29.63] or
29 under a home rule charter.

1 * Sec. 47. AS 19.30.280(a) is amended to read:

2 (a) After establishing a road maintenance service area under
3 AS 29.35.450 [AS 29.63], or under a home rule charter, a municipality
4 may apply to the department for a grant as money is available for road
5 improvements, subject to regulations adopted by the department to
6 carry out the provisions of AS 19.30.260 - 19.30.320. The department
7 shall require a municipality to submit a five-year plan for the up-
8 grading, reconstructing, rehabilitating, or paving of maintenance
9 service area roads for approval before October 1 of each fiscal year.

10 * Sec. 48. AS 26.23.230(5) is amended to read:

11 (5) "political subdivision" means a home rule or general
12 law borough or city [, WHETHER HOME RULE OR OTHERWISE,] including a
13 unified municipality [MUNICIPALITIES UNIFIED UNDER AS 29.68.240 -
14 29.68.440], an unincorporated village, or other unit of local govern-
15 ment;

16 * Sec. 49. AS 28.15.051(d) is amended to read:

17 (d) The department may issue a special driver's permit to a
18 person who is at least 14 years of age with the consent of the per-
19 son's parents or guardians for the purpose of driving a motor-driven
20 cycle. This permit may be issued upon application and successful
21 completion of all prescribed tests and fees, and is valid for the same
22 period of time as a driver's license. The permit is not valid in a
23 municipality that [WHICH] by ordinance prohibits the driving of a
24 motor-driven cycle by a person under the age of 16 years; a borough
25 may adopt the ordinance on a nonareawide basis only, unless the power
26 to adopt it on an areawide basis is acquired under AS 29.35.300 -
27 29.35.330 or former AS 29.33.250 - 29.33.290.

28 * Sec. 50. AS 38.04.020(b)(1) is amended to read:

29 (1) land nominated for selection or selected by a

1 municipality to satisfy a general grant land entitlement under
2 AS 29.65 or former AS 29.18.201 - 29.18.213;

3 * Sec. 51. AS 38.04.020(e)(4) is amended to read:

4 (4) preliminary feasibility studies, engineering design
5 work, right-of-way acquisition, and construction of access roads and
6 capital improvements required by municipal subdivision ordinance or
7 regulation of the platting authority [BOARD UNDER AS 29.33.150];

8 * Sec. 52. AS 38.04.021(a) is amended to read:

9 (a) A municipality may apply for financial assistance for the
10 execution of a land disposal program of general grant land entitle-
11 ments received from the state under AS 29.65 or former AS 29.18.201 -
12 29.18.213 by submitting a request to the commissioner for inclusion in
13 the request submitted to the legislature under AS 38.04.020(e). A
14 municipality may request financial assistance for expenses of survey-
15 ing land, designing subdivision plats, installing improvements re-
16 quired by municipal ordinance or regulation of the local platting
17 authority [BOARD], and other reasonable direct costs of land disposal.

18 * Sec. 53. AS 38.04.021(d) is amended to read:

19 (d) A grant made under this section may not exceed five times
20 the amount of money appropriated by a first class city, a borough, or
21 a unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440] for
22 the disposal of municipal land in the current fiscal year unless the
23 commissioner exempts the municipality from this subsection.

24 * Sec. 54. AS 38.04.021(e)(2) is amended to read:

25 (2) a first class city, a borough, or a unified municipal-
26 ity that [UNIFIED UNDER AS 29.68.240 - 29.68.440 WHICH] is exempted by
27 the commissioner under (d) of this section.

28 * Sec. 55. AS 38.04.900(b) is amended to read:

29 (b) A municipality has standing to petition the commissioner for

1 the adoption of a regulation, or for the amendment or repeal of an
2 existing regulation, or to appeal a decision of the commissioner with
3 respect to classification, management, or disposal of land made under
4 authority of a regulation adopted under (a) of this section with
5 respect to state land outside the corporate boundaries of the muni-
6 cipality to protect any interest which the municipality is authorized
7 to regulate outside its boundaries under AS 29.35.020 [AS 29.48.037].

8 * Sec. 56. AS 38.05.127(d) is amended to read:

9 (d) Upon application by a municipality or an affected owner of
10 land, the department may vacate, release, modify, or relocate an ease-
11 ment and right-of-way for public access to or along navigable or
12 public waters reserved by the department in a patent issued under
13 AS 29.65 or former AS 29.18.011 - 29.18.460, [AS 29.18] if the commis-
14 sioner determines the action is consistent with the public interest.

15 * Sec. 57. AS 38.05.290(b) is amended to read:

16 (b) Consistent with the best interests of the state, in the
17 selection of general grant land it is the policy of the state to make
18 available the maximum land area from which municipalities may fulfill
19 land entitlements under AS 29.65 or former AS 29.18.201 - 29.18.213.

20 * Sec. 58. AS 38.05.321(b) is amended to read:

21 (b) State land classified as agricultural land that [WHICH] has
22 been selected by a municipality under former AS 29.18.190 - 29.18.200
23 or former AS 29.18.205(e) may be approved by the director for patent
24 under AS 29.65.050(c) [AS 29.18.205(f)]; however, only rights in the
25 land for agricultural purposes may be transferred and all other inter-
26 ests in the land will remain with the state. Agricultural land ap-
27 proved for patent to a municipality [UNDER AS 29.18.205(f)] shall be
28 credited, acre for acre, toward fulfillment of that municipality's
29 entitlement under AS 29.65.010 - 29.65.030 or former AS 29.18.201 -

1 29.18.203. If the director later determines it to be in the best
2 interests of the state to transfer some or all of the additional
3 rights in that approved or patented agricultural land, those rights
4 shall pass without consideration to the municipality in which the land
5 is located. The notice and review provisions of AS 38.05.945 are
6 applicable to conveyance of rights under this section.

7 * Sec. 59. AS 38.05.321(c) is amended to read:

8 (c) The provisions of this section do not apply to

9 (1) [TO] state land classified as agricultural land that
10 has been selected by a municipality under the provisions of former
11 AS 29.18.190 - 29.18.200 if the selection is an approved selection
12 before April 1, 1978 and is otherwise valid under AS 29.65.050(b) or
13 former AS 29.18.205(b); or

14 (2) a quitclaim of the interest of the state to the federal
15 government under AS 38.05.035(b)(9).

16 * Sec. 60. AS 38.09.080 is amended to read:

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munici-
18 pality has filed a selection of state lands under AS 29.65 or former
19 AS 29.18.201 - 29.18.213 with the commissioner, the state land se-
20 lected may not be designated for homestead entry; if the commissioner
21 determines that land selected by a municipality is not available for
22 patent to the municipality under AS 29.65 or former AS 29.18.201 -
23 29.18.213, the state land is available for designation by the commis-
24 sioner for homestead entry under AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local
26 platting, recording, or subdivision requirements established under
27 AS 29.35.180 [AS 29.33] and AS 40.15.

28 * Sec. 61. AS 39.50.145 is amended to read:

29 Sec. 39.50.145. PARTICIPATION BY MUNICIPALITIES. A municipality

1 may exempt its municipal officers from the requirements of this chap-
2 ter if a majority of the voters voting on the question at a [ANY]
3 regular election, as defined by AS 29.71.800(20) [AS 29.78.010(14)],
4 or a special municipality-wide election, vote to exempt its municipal
5 officers from the requirements of this chapter. The question of
6 exemption from the requirements of this chapter may be submitted by
7 the city council or borough assembly by ordinance or by initiative
8 election [ORDINANCE].

9 * Sec. 62. AS 39.50.200(a)(7) is amended to read:

10 (7) "municipal officer" includes a borough or city mayor,
11 borough assemblyman, city councilman, school board member, elected
12 utility board member, city or borough manager, members of a city or
13 borough planning or zoning commission within a home rule or general
14 law city or borough, or [INCLUDING BUT NOT LIMITED TO] a unified muni-
15 cipality [UNDER AS 29.68];

16 * Sec. 63. AS 40.15.075 is amended to read:

17 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
18 CLASS BOROUGH. The division of lands is the platting authority in
19 the area outside organized boroughs and outside cities in the unor-
20 ganized borough and in the third class borough for only the purposes
21 of hearing and acting on petitions for the change or vacation of plats
22 and shall execute this function substantially in conformity with the
23 provisions of AS 29.40.130 - 29.40.160 [AS 29.33.210 - 29.33.240].
24 Costs of publication and mailing [AS WELL AS OTHER COSTS] authorized
25 in AS 29.40.130 [AS 29.33.210] shall be paid to the division by the
26 petitioner. The Department of Natural Resources shall adopt reason-
27 able regulations governing the exercise of the authority conferred by
28 this section upon the division of lands.

29 * Sec. 64. AS 40.15.200 is amended to read:

1 Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVI-
2 SIONS. All subdivisions of land made by the state, its agencies,
3 instrumentalities and political subdivisions are subject to the provi-
4 sions of this chapter and AS 29.40.070 - 29.40.160 [AS 29.33.150 -
5 29.33.240], or home rule ordinances or regulations governing subdivi-
6 sions, and shall comply with ordinances and other local regulations
7 adopted under this chapter and AS 29.40.070 - 29.40.160 or former
8 AS 29.33.150 - 29.33.240, or under home rule authority, in the same
9 manner and to the same extent as subdivisions made by other land-
10 owners.

11 * Sec. 65. AS 41.35.180(5) is amended to read:

12 (5) consult with local historical district commissions re-
13 garding the establishment of historical districts under AS 29.55.010 -
14 29.55.020 [AS 29.48.108 - 29.48.110] and the approval of project
15 alterations under AS 45.98.040; recommend, if appropriate, the formu-
16 lation of additional criteria for the designation of historical dis-
17 tricts under AS 29.55.020(b) [AS 29.48.110(b)]; approve plans for and
18 evaluate the suitability of specific structures for purposes of loan
19 eligibility and continuance under the historical district revolving
20 loan fund (AS 45.98); and consult with the Department of Commerce and
21 Economic Development relative to the adoption of regulations for
22 historical district loans under AS 45.98.

23 * Sec. 66. AS 41.98.175(d) is amended to read:

24 (d) In (a) of this section "municipalities" includes cities or
25 organized boroughs of any class and unified municipalities exercising
26 powers to initiate projects described in AS 41.98.170 and acquire
27 parks and open space land, as otherwise authorized by law [, AND
28 INCLUDES BUT IS NOT LIMITED TO UNIFIED MUNICIPALITIES ORGANIZED UNDER
29 AS 29.68.240 - 29.68.440].

1 * Sec. 67. AS 42.05.711(1) is amended to read:

2 (1) A person, utility, or cooperative that is exempt from regu-
3 lation under AS 42.05.711(a) or (d) - (k) is not subject to regulation
4 by a municipality under AS 29.35.070 [AS 29.48.060 - 29.48.090].

5 * Sec. 68. AS 43.56.010(b) is amended to read:

6 (b) A municipality may levy and collect a tax under AS 29.45.080
7 [AS 29.53.045] at the rate of taxation that applies to other property
8 taxed by the municipality. The tax shall be levied at a rate no
9 higher than the rate applicable to other property taxable by the
10 municipality. No municipality may exempt from taxation property
11 authorized to be taxed under this chapter. Exemptions shall be lim-
12 ited to those in AS 29.45.030, 29.45.050, [AS 29.53.020 AND AS 29.53.-
13 025] and AS 43.56.020.

14 * Sec. 69. AS 43.56.010(c) is amended to read:

15 (c) If the total value of assessed property of a municipality
16 taxing under AS 29.45.080(c) [AS 29.53.045(c)] exceeds the product of
17 225 percent of the average per capita assessed full and true value of
18 property in the state (to be determined by the department and reported
19 to each municipality by January 15 of each year) multiplied by the
20 number of residents of the taxing municipality, the department shall
21 designate the portion of the tax base against which the local tax may
22 be applied. [FOR PURPOSES OF THIS SUBSECTION THE AVERAGE PER CAPITA
23 ASSESSED FULL AND TRUE VALUE OF PROPERTY IN THE STATE SHALL BE
24 CALCULATED WITHOUT REGARD TO THE ASSESSED VALUE OF TAXABLE PROPERTY
25 UNDER AS 43.58.]

26 * Sec. 70. AS 43.56.010(d) is amended to read:

27 (d) A tax paid to a municipality under AS 29.45.080 or former
28 AS 29.53.045 on or before June 30 of the tax year shall be credited
29 against the tax levied under (a) of this section for that tax year.

1 If, however, a tax is not paid to a municipality until after June 30
2 of the taxable year, the department upon application shall refund to
3 the taxpayer the amount of tax paid to the municipality under AS 29.-
4 45.080 or former AS 29.53.045. The credit or refund of taxes paid to
5 a municipality may not exceed the total amount of tax levied by the
6 department upon the taxpayer for the tax year, under (a) of this
7 section.

8 * Sec. 71. AS 43.56.060(a) is amended to read:

9 (a) The department shall assess property for the tax levied
10 under AS 43.56.010(b) and AS 29.45.080 [AS 29.53.045] on property used
11 or committed by contract or other agreement for use for the pipeline
12 transportation of gas or unrefined oil or for the production of gas or
13 unrefined oil at its full and true value as of January 1 of the as-
14 sessment year.

15 * Sec. 72. AS 43.75.130(1) is amended to read:

16 (1) to each unified municipality [UNIFIED UNDER AS 29.68.-
17 240 - 29.68.440,] and to each city located in the unorganized borough,
18 50 percent of the amount of tax revenue collected in the municipality
19 from taxes levied by AS 43.75;

20 * Sec. 73. AS 44.33.403(2)(A) is amended to read:

21 (A) has the authority under AS 29.35 [AS 29.41 OR
22 AS 29.48] to provide and maintain a cultural facility;

23 * Sec. 74. AS 44.47 is amended by adding new sections to read:

24 ARTICLE 12. BOROUGH FEASIBILITY STUDIES.

25 Sec. 44.47.700. BOROUGH FEASIBILITY STUDIES. (a) The commis-
26 sioner may contract for studies of the feasibility of establishing
27 boroughs in the unorganized borough. A study may be conducted under
28 this section only if

29 (1) appropriations are available for that purpose; and

1 (2) the study is requested by a person residing in the area
2 to be studied or by a city located in the area to be studied.

3 Sec. 44.47.710. REQUESTS FOR STUDIES. A request for a study of
4 the feasibility of establishing a borough in the unorganized borough
5 shall be submitted to the commissioner in writing and shall include

6 (1) a description of the boundaries of the area of the pro-
7 posed study; and

8 (2) an indication of local interest in the proposed study
9 consisting of either

10 (A) a petition requesting the study containing the
11 signatures and addresses of five percent of the voters residing
12 in the area of the proposed study based on the number of voters
13 who voted in the area in the last statewide election; or

14 (B) resolutions requesting the study adopted by the
15 governing bodies of at least five percent of the cities within
16 the area of the proposed study.

17 Sec. 44.47.720. BOUNDARIES. The boundaries of an area studied
18 shall conform to the boundaries indicated in the request for the study
19 under AS 44.47.710 unless the commissioner, after a public hearing
20 held in the area of the proposed study, determines that the boundaries
21 should be altered. In determining the boundaries of an area to be
22 studied, the commissioner shall consider

23 (1) the standards applicable to the incorporation of bor-
24 oughs under AS 29.05.030;

25 (2) boundaries of regional corporations established under
26 43 U.S.C. 1606;

27 (3) census divisions of the state used for the 1980 census;

28 (4) boundaries of the regional educational attendance areas
29 established under AS 14.08.031; and

1 (5) boundaries of coastal resource service areas organized
2 under AS 46.40.110 - 46.40.210.

3 Sec. 44.47.730. CONTRACTS. (a) The commissioner shall contract
4 for a study of the feasibility of establishing a borough in the unor-
5 ganized borough by following the procedures set out in AS 36.98. The
6 commissioner shall include terms in the contract that provide for

7 (1) public participation in the preparation of the study;
8 (2) completion of the study not later than June 30 of the
9 third year after the year the contract is executed.

10 (b) A study under this section shall include

11 (1) a recommendation for or against incorporation of a bor-
12 ough containing all or part of the area studied;

13 (2) an evaluation of the economic development potential of
14 the area studied;

15 (3) an evaluation of capital facility needs of the area
16 studied;

17 (4) an evaluation of demographic, social, and environmental
18 factors affecting the area studied;

19 (5) an evaluation of the relationships among regional
20 educational attendance areas, coastal resource service areas, and
21 other regional entities responsible for providing services in the area
22 studied;

23 (6) an evaluation of the relationships between the existing
24 cities within the area studied and regional entities responsible for
25 providing services in the area; and

26 (7) specific recommendations for

27 (A) organization of a home rule or general law borough
28 government if one is recommended;

29 (B) changes in organization of cities in the area

1 studied; or

2 (C) the improvement of the delivery of services to the
3 public by the state in the area studied.

4 * Sec. 75. AS 44.83.162(m) is amended to read:

5 (m) For purposes of (c) of this section, the number of residents
6 of the community equals the number of residents of the community
7 determined by the Department of Community and Regional Affairs in
8 accordance with AS 29.60.020 [AS 29.88.015].

9 * Sec. 76. AS 44.85.270(i) is amended to read:

10 (i) All references to the "reserve fund" in this section include
11 special accounts within the reserve fund which may be created by the
12 authority to secure the payment of particular bonds, including, with-
13 out limitation, bonds issued by the capital city established under
14 AS 29.14.010 [AS 29.18.510]. The commissioner of revenue may lend
15 surplus money in the general fund to the authority for deposit to any
16 account in the reserve fund in an amount equal to the required debt
17 service reserve. The loans shall be made on such terms and conditions
18 as may be agreed upon by the commissioner of revenue and the author-
19 ity, including, without limitation, terms and conditions providing
20 that the loans need not be repaid until the obligations of the corpo-
21 ration secured and to be secured by the account in the reserve fund
22 are no longer outstanding.

23 * Sec. 77. AS 44.85.410(3)(A) is amended to read:

24 (A) a general obligation bond that [WHICH] is a direct
25 and general obligation of a political subdivision of the state,
26 all the taxable property within which is subject to taxation to
27 pay the bond, note or evidence of debt, and the interest without
28 limitation, as to rate or amount generally to the extent permit-
29 ted by law or to avoid a default as provided for second class

1 cities under AS 29.45.590 [AS 29.53.410]; or

2 * Sec. 78. AS 44.85.410(3)(D) is amended to read:

3 (D) a bond of a borough issued as a general obligation
4 of a service area under AS 29.47.440 or former AS 29.58.340; [.]

5 * Sec. 79. AS 45.98.020 is amended to read:

6 Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and
7 plan approval by a local historical district commission established
8 under AS 29.55.010 or former AS 29.48.108 and the recommendation of a
9 majority of the members of the Historic Sites Advisory Committee, the
10 Department of Commerce and Economic Development may make loans to a
11 person, firm, business or municipality subject to applicable laws for
12 the restoration, improvement, rehabilitation, or maintenance of a
13 structure that [WHICH] is

14 (1) within the boundaries of a historical district estab-
15 lished under AS 29.55.020 or former AS 29.48.110;

16 (2) identified as important in state or national history as
17 provided for in AS 29.55.020(b) or former AS 29.48.110(b); and

18 (3) another building or structure within a historical dis-
19 trict, and suitable for superficial modification so that it can con-
20 form to the period or motif of the surrounding buildings or structures
21 that are the reason for the area's designation as a historical dis-
22 trict.

23 * Sec. 80. AS 46.03.210(a) is amended to read:

24 (a) A municipality with a population in excess of 1,000 may,
25 within five years from August 5, 1969, establish and administer within
26 its jurisdiction an air pollution control program. Organized boroughs
27 may establish an air pollution control program on an areawide basis,
28 and the exercise of powers with respect to the program is not subject
29 to the restrictions on acquiring additional areawide powers specified

1 in AS 29.35.300 - 29.35.330 [AS 29.33.250 - 29.33.290]. Local pro-
2 grams shall

3 (1) provide by ordinance for requirements compatible with
4 those imposed by the provisions of AS 46.03.140 and 46.03.170 and
5 applicable regulations;

6 (2) provide for the enforcement of the requirements imposed
7 through appropriate administrative and judicial processes;

8 (3) provide for a local administrative organization, staff,
9 and other resources necessary to effectively carry out the purposes of
10 the program; and

11 (4) be approved by the department as being satisfactory to
12 meet the requirements of AS 46.03.140 - 46.03.170 and the applicable
13 regulations.

14 * Sec. 81. AS 46.11.040(3)(A) is amended to read:

15 (A) is constructed under an exception to the municipal
16 building code granted because the exception will result in in-
17 creased energy efficiency [UNDER AS 29.33.080(g)]; or

18 * Sec. 82. AS 46.11.900(8) is amended to read:

19 (8) "state financial assistance" means a loan, grant,
20 guarantee, insurance, payment, rebate, subsidy, or other form of state
21 assistance (other than aid under AS 29.60 [AS 29.88, AS 29.89, AS 29.-
22 90, AS 29.95,] and AS 43.18) including the purchase by a state agency
23 of a loan to finance the construction of a new residential, commer-
24 cial, or industrial building;

25 * Sec. 83. AS 46.35.200(3) is amended to read:

26 (3) "local government" means a city or borough including a
27 unified municipality [UNIFIED UNDER AS 29.68.240 - 29.68.440];

28 * Sec. 84. AS 46.40.140(h) is amended to read:

29 (h) Members of coastal resource service area boards are subject

1 to recall on the same grounds and in the same manner as provided for
2 recall of municipal officials in AS 29.26.240 - 29.26.350 [AS 29.28.-
3 130 - 29.28.250]. The lieutenant governor functions in place of the
4 assembly or council and municipal clerk for receipt and review of
5 recall petitions and the conduct of recall elections.

6 * Sec. 85. AS 46.40.210(2)(A) is amended to read:

7 (A) unified municipalities [ESTABLISHED UNDER AS 29.-
8 68.240 - 29.68.440];

9 * Sec. 86. AS 47.35.010(b) is amended to read:

10 (b) The department shall, within 90 days after receiving a
11 written request that it do so, delegate its powers relating to nur-
12 series under this section and under AS 47.35.040 - 47.35.060 to a
13 municipality that [WHICH] has adopted an ordinance providing for day
14 care licensing under home rule powers or as authorized under AS 29.-
15 35.200 - 29.35.210 [AS 29.48.035(a)(20)]. A municipality to which
16 these powers have been delegated may waive or modify any regulation or
17 standard established by the department under the authority of AS 47.-
18 35.010 - 47.35.080 as it applies to nurseries or the application of
19 any such regulation or standard as it applies to a particular day care
20 licensee but must notify the department of any waiver.

21 * Sec. 87. The following laws are repealed: AS 04.11.400(c); AS 04.-
22 21.080(b)(11); AS 14.56.065(b), 14.56.180(3); AS 15.13.130(6); AS 18.55.-
23 950(10); AS 19.20.015(f); AS 24.55.330(3); AS 28.40.100(a)(10); AS 29.08;
24 AS 29.13; AS 29.18; AS 29.23; AS 29.28; AS 29.33; AS 29.38; AS 29.41;
25 AS 29.43; AS 29.48; AS 29.53; AS 29.58; AS 29.63; AS 29.68; AS 29.73;
26 AS 29.78; AS 29.88; AS 29.89; AS 29.95; AS 30.15.070(3); AS 30.30.170(2);
27 AS 35.15.120(3); AS 42.06.630(6); AS 43.20.016; AS 43.56.210(8); AS 44.-
28 07.360(8); AS 44.33.417(6); AS 44.47.310(5); and AS 44.85.410(4).

29 * Sec. 88. A right or liability of a municipality existing on

1 January 1, 1986, is not affected by the enactment of this Act. Ordinances
2 and regulations in effect on January 1, 1986, remain in effect unless they
3 conflict with provisions of this Act. Ordinances and regulations in effect
4 on January 1, 1986, that conflict with provisions of this Act remain in
5 effect for 180 days after January 1986. The terms of elected or appointed
6 municipal officials in office on January 1986, are not affected by this
7 Act, and their terms expire as provided before January 1, 1986.

8 * Sec. 89. This Act takes effect January 1, 1986.

municipality of Anchorage, however, expects to lose "a couple hundred thousand dollars" the first year. In Anchorage the program will apply to approximately 180,000 vehicles. Included in that total are approximately 15,000 which may be exempt.

Referring to the fiscal note, Co-chairman Sackett advised that the FY 86 operating budget includes a \$150.5 increment with five permanent full time positions relating to the emission program. He asked if the request was approved by both finance committees. Mr. Brown explained that two of the positions relate to mail-out requirements for the program, one position is for the Fairbanks field office, and the remaining two are for the Anchorage field office. Contact with states having similar programs indicates that time required to explain the program to the public and to process additional paperwork increases the amount of time needed to complete registrations. At the present time, it takes approximately 5 minutes to process a registration. The time requirement will increase by 1 minute (a 20% increase). The additional positions for Anchorage and Fairbanks reflect the 20% increase. The five positions are all clerical.

Senator Halford asked if state and municipal vehicles would have to pass inspection, and Mr. Brown replied affirmatively.

Senator Ferguson inquired concerning the cutoff date for vehicles in terms of age. Mr. Husson responded that the cutoff date for Fairbanks is 1975. As the program goes forward, the cutoff will increase to "a fifteen model-year inclusion." The Anchorage program is based on vehicles fifteen years old and newer with graduated standards for the vehicles. Senator Halford noted that cost-wise, those with newer vehicles appear to have an advantage over those with older cars. Mr. Lauzen explained that 10 to 15-year-old vehicles in Anchorage will not receive an under-the-hood inspection. They will simply be subjected to a tailpipe test. Under other programs throughout the United States, the cost of such a test is minimal. Vehicles which have been maintained should quickly pass. Discussion followed concerning vehicle testing. Mr. Lauzen advised that nothing in the program would require adding anything to a vehicle which was not originally manufactured. Program standards vary for different vehicles and parallel the manufacturer's standards.

Co-chairman Faiks directed that the bill be held in committee pending the drafting of waiver language and incorporation of the language into a Senate Finance Committee Substitute. At Senator Halford's suggestion, she further proposed that language be included which provides that the state program will not effect requirements beyond those of the federal government. No objection having been raised, it was so ordered.

HB 72

Co-chairman Faiks directed that SCS for CSHB 72 (Judiciary) (AN ACT RELATING TO MUNICIPAL GOVERNMENT) be brought on for discussion. She directed attention to a sectional analysis and a fiscal note projecting the need for operating funds of \$400.0 for FY 87.

JEFF SMITH, Acting Commissioner, Dept. of Community & Regional Affairs appeared before committee. Co-chairman Faiks directed attention to the following amendments:

Amendment No. 1 (Senator Sackett)

Co-chairman Sackett moved for adoption of Amendment No. 1, relating to home rule cities (specifically applicable to Bethel). Acting Commissioner Smith advised that the department has no objection to the amendment. No objection having been raised, the amendment was adopted.

Amendment No. 2 (Senator Eliason)

Senator Eliason moved for adoption of Amendment No. 2, relating to sales taxes on alcoholic beverages. He explained that in 1980 the legislature restructured liquor bills. Language contained in the proposed amendment was inadvertently dropped out of legislation at that time. Consequently, some communities have instituted a sales tax on a single item--alcohol. The state totally regulates liquor, and last year effected a tax increase. The ability to tax alcoholic beverage sales should thus remain with state government. Communities retain the ability to vote on whether or not to go dry, and they may establish bar hours. Imposing a local tax upon a single industry is discriminatory, however, and should be discouraged.

Communities (Craig, Juneau, and Kotzebue) which imposed a local sales tax on alcoholic beverages prior to July 1, 1985, will be grandfathered in and allowed to maintain the tax. The amendment would prohibit other communities from imposing a sales tax on alcoholic beverages alone. The intent is to treat all commodities equally.

Mr. Smith advised of his understanding that the amendment would specify that a community could not set a higher tax for alcohol than for other commodities. Exemptions for prescriptions and other designated goods would not be affected. Co-chairman Faiks advised that the municipality of Anchorage currently has no sales tax. She then stated her understanding that should the municipality wish to tax alcohol only, it would be prohibited from doing so under the proposed amendment.

TAMARA COOK, Deputy Director, Legal Services, Legislative Affairs Agency, appeared before committee, advising that the amendment would not preclude the taxing of alcohol as long as some other commodity was also taxed. Aside from that, there is flexibility

in terms of what items are taxed. If a municipality imposed a sales tax on anything other than alcohol, it would be free to include alcohol within its tax structure.

Senator Halford asked if all sales taxes require voter approval. Ms. Cook responded that they do and added that under existing law a municipality is only allowed to place a sales tax question on the ballot once a year. Senator Halford then asked if the amendment would limit voters' rights to choose to tax alcoholic beverage sales. Ms. Cook responded that the amendment would limit voter and municipal ability to impose a sales tax only on the sale of alcoholic beverages.

Co-chairman Faiks directed that Amendment No. 2 remain pending until tomorrow when it would again be before committee.

ADJOURNMENT

Due to time constraints, the meeting was adjourned at approximately 11:05 a.m.

SFC-85, #55, Side 2 (117-end)
SFC-85, #56, Side 1 (000-end)
SFC-85, #56, Side 2 (000-780)

SENATE FINANCE COMMITTEE

May 8, 1985

8:45 a.m.

SFC-85, #57, Side 1 (000-end)

SFC-85, #57, Side 2 (000-end)

SFC-85, #58, Side 1 (000-517)

CALL TO ORDER

Co-chairman Jan Faiks called the meeting to order at approximately 8:45 a.m.

PRESENT

In addition to Co-chairman Faiks, all committee members (Co-chairman Sackett, and Senators Eliason, Ferguson, P. Fischer, Halford, and Kerttula) were present.

ALSO ATTENDING: Senators Edna DeVries; Bettye Fahrenkamp, Jack Coghill, and Bill Ray; Representatives Peter Goll, Katie Hurley, and Mike Navarre; Jeff Smith, Acting Commissioner of Dept. Community & Regional Affairs; Doug Griffin, Deputy Director, Division of Municipal and Regional Assistance, Dept. of Community & Regional Affairs; Tamara Brandt Cook, Deputy Director, Division of Legal Services, Legislative Affairs Agency; Scott A. Burgess, Executive Director, Alaska Municipal League; Ted Burns, Vice President, Multivisions; David Hutchens, Executive Director, Alaska Rural Electric Corporation; Kay Brown, Director, Division of Oil and Gas, Dept. of Natural Resources; Lisa Nelson and Gayle Horetski, Assistant Attorneys General, Criminal Division, and Susan Cox, Assistant Attorney General, Civil Division, Dept. of Law; Paul B. Arnoldt, Director of Investments, Dept. of Commerce & Economic Development; James D. Vaden, Deputy Commissioner, Dept. of Public Safety; Art Snowden, Director, Court System; Barbara Miklos, Executive Director, Council on Domestic Violence and Sexual Assault; Margot Dick, Coordinator, Alaska Network on Domestic Violence and Sexual Assault; Caren Robinson, Executive Director, AWARE, Inc.; Patricia O'Brien, Social Services Program Officer, Dept. of Health & Social Services; Frank Barthel, Social Services Program and Court Coordinator, Dept. of Health & Social Services; John Coffee, Planner, S.E.R.R.C.; Robert J. Walker, Lobbyist, Exxon; Ken Lauzen, Vehicle Program Manager, Municipality of Anchorage; L. D. Verelli, Air Quality Program Manager, Dept. of Environmental Conservation; Lee Husson, Vehicle I/M Program Administrator, Fairbanks North Star Borough; Sherrie Goll, Lobbyist, Alaska Women's Lobby; Susan Knighton, Research Analyst, Dept. of Corrections; Bill Brown, Chief, Driver Services, Dept. of Public Safety; Dave Kaiser, PSEA; Edward T. Harter, PSEA; David R. Meek, President, Public Safety Employees Association; Mike Greany, Director, Division of Legislative Finance; Elizabeth Hickerson, Senate Advisory Council; aides to committee members and other members of the legislature; and representatives of the press.

SUMMARY INFORMATION

- HB 67 - Act relating to the admissibility of hearsay evidence of certain statements by children before grand juries, amending Alaska Criminal Rule 6 (r)
- CS HB 67 (Finance) was held in committee for further discussion at the afternoon meeting.
- HB 72 - Act relating to municipal government
- SCS CS HB 72 (Judiciary) was held in committee for further discussion at the afternoon meeting (Amendments 6 and 7, pending)
- HB 81 - Act relating to motor vehicle emission inspection
- SCS HB 81 (Finance) was held in committee for redrafting of exemption provisions
- SB 21 - Act relating to background checks on certain employees who come into contact with children
- CS SB 21 (HESS) was held in committee pending organization and assessment of child protection fiscal notes
- SB 219 - Act establishing a special unit for the investigation of criminally exploited and missing children
- CS SB 219 (Finance) was held in committee pending receipt of a fiscal note from the Dept. of Law.
- SB 232 - Act approving the sale of Prudhoe Bay royalty oil by the State of Alaska to the Golden Valley Electric Association
- CS SB 232 (Finance) was held in committee for members' review prior to passage at the afternoon meeting.

HB 72

Co-chairman Faiks moved that SCS CS HB 72 (Judiciary) (ACT RELATING TO MUNICIPAL GOVERNMENT) be brought on for discussion and advised that Amendment No. 2 was pending before committee.

Senator Eliason explained that he had requested that Senator Bill Ray testify concerning the background of the amendment, noting that it dates back to the day that the alcohol code was revamped.

SENATOR BILL RAY came before committee advising that his expertise in the area of alcohol legislation commenced in 1959

when he was appointed to the ABC Board. In 1980 Title IV was recodified. Senator Ray explained that originally there was no property tax on liquor inventory because license fees were returned to the municipality in lieu of property taxes. As time passed and enforcement problems arose, it was determined that license fees should be used strictly for enforcement.

Language which prohibits the limiting of sales taxes to alcohol alone was inadvertently dropped out of previous legislation when finalized in conference committee. It was never the intent of the conference committee to eliminate the language.

Senator Halford inquired concerning the effect of the proposed amendment, advising of his understanding that sales taxes cannot be imposed without a vote of the people. He noted that he felt differently about limitations on voters' power as opposed to limitations on municipal power.

Senator Ray advised of his belief that it is discriminatory to "have an additional tax on anything--in other words select an additional tax on matches because they have a lot of fires in town." Senator Halford said, "We do, for example, allow boats to be taxed differently than houses." Someone living on a \$200,000 boat pays a tonnage fee while someone who lives in a \$200,000 house pays real property taxes at a substantially higher value.

Senator Eliason explained that the only limitation being imposed upon local governments by the amendment relates to the fact that they cannot enact "a specific sales tax on a specific industry." The amendment says that if a municipality wants to tax liquor and something else, whatever that might be, that is all right. The intent is to keep municipalities from selecting an industry and taxing it and no one else. A ballot proposition which proposed a 10% tax on liquor and tobacco would not be in violation of amendment provisions. However, if the proposition read, "Shall we impose a 10% tax on tobacco, only," the municipality could not do so under provisions of the proposed amendment.

Senator Ray reiterated previous statements, advising that historically it was considered that additional revenues generated to the state through the sale of alcohol and license fees were sufficient and an inventory tax was not needed. Inherent problems later led to application of an inventory tax, and it was subsequently determined that it was acceptable to also levy a sales tax "if the sales tax was generated from everything else within the community." It is a policy question.

Senator Kerttula asked if the proposed amendment had been offered in the course of previous hearings on the bill before other legislative committees. Senator Ray explained that provisions contained within the amendment should earlier have been included in statute and were inadvertently omitted or perhaps left out of previous legislation by an attorney at Legislative Affairs who was proficient at "making things rhyme out and sound nice,

irrespective of what it really did." The language in his mind might have seemed redundant. In response to restatement of Senator Kerttula's question, Senator Ray advised that to his knowledge the language contained within the amendment had not been proposed to other committees.

Senator Kerttula advised of his understanding that under the proposed provision a tax could be imposed by a municipality if two or more things were taxed. One commodity, however, cannot be selected for taxation. Senator Eliason concurred in the foregoing understanding, noting that the amendment attempts to avoid zeroing in on one specific industry for a specific tax.

SCOTT BURGESS, Executive Director, Alaska Municipal League, next came before committee. He voiced opposition to Amendment No. 2 for the following reasons:

1. It reflects a policy issue which has not gone through the processes dealing with the bill.
2. It amends Title 4 rather than Title 29, the subject of the bill.
3. Local options should be maintained.

The Municipal League has attempted to "keep controversial issues off this bill." It passed once before, and controversial items were added at the last moment which caused it to be vetoed. The issue raised by the amendment should be brought in separate legislation rather than tagged onto the instant bill.

In terms of local options, all sales taxes must go before the voters and are imposed only at the will of the majority. Proposed taxes, whether they be on alcohol or anything else, would be voted for by the people.

As background, Mr. Burgess explained that discussion with the Juneau attorney involved on the technical committee for Title 29, indicates that there was a specific request during hearings and rewrite of Title 4 by alcoholism groups "to put that in there." It appears to have been a conscious effort.

In a concluding statement, Mr. Burgess advised that the Municipal League views the amendment as a new issue which is potentially controversial. The League opposes the amendment.

Co-chairman Sackett advised that the committee substitute currently before committee reflects "the result of people tinkering in every committee with all of their different amendments." The fact that Senate Finance is the last committee of referral does not deny Finance the opportunity to "also tinker with the bill."

Senator Paul Fischer noted previous veto by the Governor and asked Mr. Burgess if he had talked to the Governor to determine whether Amendment No. 2 posed a critical problem. Mr. Burgess responded negatively, advising that due to the fact that the issue had only recently been raised, he had not had time to undertake a lot of research.

Senator Ferguson called for a vote on the question of adoption of AMENDMENT NO. 2.

Senator Kerttula advised of his understanding that the League seeks to "retain every option for a vote of the people on decisions like this." Mr. Burgess replied affirmatively.

Senator Kerttula noted that legislation establishing second class boroughs states that "the people have a right to impose any new conditions on the borough that weren't imposed in the original act." The proposed legislation "doesn't seek a vote of the people in which to impose the new conditions upon them." Mr. Burgess advised of his understanding that the foregoing statements relate to "the new power of economic development." He acknowledged that he was at somewhat of a loss in that the bill has been around a long time, but he was unaware of why economic development was added as a power which specifically does not require a vote of the people. It represents a non-area-wide exercise of power. Mr. Burgess supposed that reasoning behind the provision might be:

1. Economic development is something that both the state and communities have attempted to encourage.

2. Ability to designate non-area-wide development sites (industrial development) would stimulate economic development.

Mr. Burgess advised that he did not know why the provision had been added to the bill and acknowledged his understanding of a potential conflict between "pushing for a vote in one case and not in the other."

In response to earlier statements by Mr. Burgess to the effect that the instant bill deals only with Title 29, Senator Eliason disputed the claim, advising that it also deals with Titles 9, 14, 15, 28, 38, etc. Mr. Burgess replied that the League had appeared at previous hearings on the bill and voiced support or opposition for proposed changes. The concern at this point is "that we not get into new policy areas, and that we try to get this bill which has had review and statewide hearings" passed. He acknowledged that the bill deals with "other sections." The concern is that a prohibition on introduction of sales tax on liquor specifically is something that was addressed in revisions to Title 4.

The power of municipalities to issue sales tax is granted in Title 29. The issue of alcohol is dealt with in Title 4. The

concern here is whether municipalities should have the right to have a tax on sales. The issue before committee through Amendment No. 2 is whether that sales tax should be limited. The major concern is the new policy.

Co-chairman Faiks reminded Mr. Burgess and others attending the meeting that "there is over ninety years of legislative experience sitting at this table." It would be impossible for the committee not to look very closely at every bill before it.

JEFF SMITH, Acting Commissioner, Dept. of Community & Regional Affairs, next came before committee. He advised that following review of and staff discussion of the amendment, the department supports it.

Co-chairman Faiks called for a show of hands on adoption of Amendment No. 2. The vote showed Co-chairmen Faiks and Sackett and Senators Ferguson, Eliason, and Kerttula in favor. No objection having been raised, AMENDMENT NO. 2 was ADOPTED.

Senator Ferguson MOVED for adoption of Amendment No. 3 (adding a new subsection 26, dealing with local franchising, to AS 29.35.060 and continuing exemptions for utilities and cooperatives) and requested that those in attendance wishing to speak to the amendment be allowed to do so.

TED BURNS, Attorney and Vice President of Multivisions Cable Television in Anchorage, came before committee advising that he noted a potential problem in SCS CS HB 82 (Judiciary). He explained that under the bill, existing law is being changed and powers of municipalities expanded.

Present law dealing with the ability of municipalities to adopt franchises and engage in franchise regulation is covered under AS 29.48.050. That section, which applies to all municipalities, says that municipalities cannot engage in franchise regulation for public utilities--utilities which are regulated under APUC. In the proposed bill, the foregoing section has been eliminated. The replacement section says, in essence, the same thing: municipalities may not grant franchises and engage in franchise regulation of utilities holding APUC certificates of public convenience. However, the new section is inapplicable to home-rule municipalities. That means that municipalities such as Kenai, Juneau, Anchorage, and many others will be free to adopt franchise regulations which would affect public utilities such as cable television. It would allow, among other things, the imposition of franchise taxes. Federal law now permits franchise taxes of up to 5% of gross revenues. This taxing ability would be in addition to local sales tax. If a 5% franchise tax were levied in addition to a 5 or 6% sales tax, consumers could pay a 10 or 11% tax.

Other things typically done in the wake of franchise regulations are regulation of customer service policies, line extension

policies, ownership of systems (including mandatory buy-outs at the end of franchise periods).

The foregoing raises concern and represents a significant change in existing law. This issue should be focused on separately. It has great potential for controversy. Mr. Burns expressed his preference for going back to the status quo, making the section applicable to all municipalities.

Senator Halford asked if adoption of the amendment would weaken municipal ability to control easements for cable extension and installation, etc. Mr. Burns explained that right-of-way matters are covered in the APUC code (42.05.251). This section states that cities have the right to regulate right-of-ways by the permitting process. The section further sets up the APUC to arbitrate disputes between utilities and cities regarding terms and conditions of street and right-of-way use. That language is not affected by the instant bill.

SCOTT BURGESS, Executive Director, Alaska Municipal League, again came before committee speaking to the section of Amendment No. 3 relating to exemption of utilities and cooperatives from municipal regulation. He advised that proposed language changes current law and engenders confusion. The total effects of changes are unknown.

TAM COOK, Deputy Director, Legal Services, Legislative Affairs, next came before committee advising that AS 29.48.050 contains the counterpoint to franchise language. AS 29.48.050 relating to franchises is not dealt with in the amendment proposed for Page 202, Line 2, calling for deletion of subsection (1) and replacement with the following:

A person, utility, or cooperative that is exempt from regulation under AS 42.05.711 (a) or (d) - (k) is not subject to regulation by a municipality under AS 29.35.060 - 29.35.070 [AS 29.48.060 -29.48.090].

As further explanation, Ms. Cook stated that the amendment as presented accurately sets out the statute as printed. The material in brackets sets out cites covered by the provision. The section dealing with franchises, AS 29.48.050 is not dealt with in this particular section under existing law.

Co-chairman Faiks asked if adoption of the proposed amendment would adopt the status quo. Ms. Cook replied negatively, advising that adoption would include 29.48.050. It would insert the section dealing with franchises and permits.

Co-chairman Sackett inquired concerning the effect of inclusion. Ms. Cook answered that the amendment represents "a fairly complex area that could stand more than a superficial looking into." The amendment says that a person, utility, or cooperative that is exempt from regulation would not be subject to regulation by a

municipality under the franchises and permits section. This means "that they could not charge a permit fee or impose reasonable terms and conditions . . . for the use of streets and right-of-ways." Under existing law, "they are required to make streets and right-of-ways available to utilities that are regulated." In the case of cable T.V., an interesting question arises since it is not regulated. It is a specifically exempted utility.

Ms. Cook noted curiosity as to how the franchise and permits section which now exists applies to cable T.V. It may be that municipalities have a little more power in this area than they would for a regulated utility.

Ms. Cook further advised that members should be aware that in Title 29 revisions rather than preserving the phrase "utilities regulated under AS 42.05.711, revisors instead inserted the phrase that the franchise and permits section applies "to utilities certificated by APUC." Ms. Cook noted that she was unsure whether cable T.V. is so certificated. Thus, limitations contained in the franchise and permits section would not currently apply to cable T.V. This represents an unusual status in that cable T.V. would be specifically exempted from regulation.

Senator Kerttula noted problems when a regulated utility also picks up a cable television franchise and uses its allowable right of trespass to lay television rather than telephone cable. Who controls that? Ms. Cook explained that the foregoing activity would be exempt and thus unregulated.

TED BURNS again came before committee, advising of two types of regulation.

1. The right-of-way permitting process. This deals with day-to-day use of public streets and right-of-ways, and governs things like how deep cables can be buried, how far from the centerline of the street they can be laid, in what order utilities will be installed in public right-of-ways. These things were formally mentioned in old sections of Title 29. The language which appeared there was omitted from the instant bill from the beginning. It was omitted because it was identical and duplicative of language contained in the APUC code, Title 42. The language existing under Title 42 is not affected by the instant bill. Utilities have the right to use municipal streets and right-of-ways, but cities have the right to establish permits and impose "reasonable terms and conditions and a reasonable permit fee." None of that is affected by anything happening in Title 29 legislation.

2. Franchises. The present section deals primarily with franchising. This is a different matter which gets into other forms of regulation:

1. Franchise fees
2. Customer service policies
3. Systems and programming

Co-chairman Faiks advised of her understanding that Amendment No. 3 contains two parts. The first relates to franchises. Adoption of that portion of the amendment would revert to existing law. There does not appear to be a great amount of controversy here.

Problems relate to the second half of the amendment, beginning on Page 202, Line 2. Mr. Burns explained that proffered language does not represent a change although it may appear that way. The franchise section was not dealt with under AS 42.05.711 because, by its terms, cities were precluded from granting franchises to regulated utilities. The second portion of the amendment is "merely a matter of consistency." If cities, as they presently are, should be prohibited from engaging in franchise regulation of public utilities, the proposed amendment would eliminate an otherwise inconsistent statement in the law.

Mr. Burns noted for the record that it is a misnomer to say that cable television is unregulated by APUC. It is unregulated for "certain, specific things." A cable company must have a certificate of public convenience and necessity. It can be called before the commission for violation of any term or condition of the certificate, and subscribers have the right to petition the commission for further regulation.

Co-chairman Faiks called for a show of hands on the motion for adoption of Amendment No. 3. The vote showed Co-chairmen Faiks and Sackett and Senators Ferguson and Kerttula in favor of the motion, and AMENDMENT NO. 3 was ADOPTED.

Co-chairman Sackett requested that Amendment No. 4, relating to Garbage and Solid Waste Services, be rescheduled to the bottom of the committee calendar. No objection having been raised, it was so ordered. (Amendment No. 4 was later WITHDRAWN, see p. 12)

Senator Halford MOVED for adoption of Amendment No. 5, and Co-chairman Faiks advised that Representative Goll would speak to the amendment.

REPRESENTATIVE GOLL asked for an interpretation of Amendment No. 2. Co-chairman Faiks responded that the calendar before committee was long and asked that he proceed at this time with testimony relating to Amendment No. 5.

Mr. Goll explained that Amendment No. 5 relates to eminent domain. Eminent domain for second class cities was adopted in the House. It provides that a vote of the people is required prior to exercise of the power. However, previous law has been

revised so that it is no longer necessary for second class cities to go to the Dept. of Community & Regional Affairs for approval.

The amendment is a reflection of changes made in Senate Judiciary which replaced in statute what had been eliminated in the original bill: language stating that a municipally owned utility could acquire property extra-territorially to provide service. That is a noble purpose, but when you combine the vote of the people in exercising eminent domain, and the right of a municipality to act extra-territorially, it seems appropriate that eminent domain be exercised within the corporate boundaries of the municipality and not within the boundaries of some other municipality or an unincorporated area. The amendment merely limits the power of eminent domain to the municipality where it belongs.

SCOTT BURGESS, Executive Director, Alaska Municipal League, came before committee advising that the power to exercise eminent domain outside the boundaries is existing law. That power is a traditional power of both the state and its political subdivisions. This exercise is in the public interest to provide services to the public. This power is also enjoyed by public utility companies, coops, and mining companies. Even private companies providing utilities and/or services to the public can exercise the power of eminent domain. Surely the vote of the people is not involved in those issues.

Senator Eliason asked if the amendment had been proposed before other committees of the legislature. Mr. Burgess responded negatively. The Senator advised of his understanding that if the amendment is adopted, municipalities would have to go to the legislature or state to exercise eminent domain outside their boundaries. Mr. Burgess advised that he could not answer the question.

TAM COOK, Deputy Director, Legal Division, Legislative Affairs, came before committee advising that under the terms of the amendment a municipality would not be able to acquire a right-of-way unless it was able to get landowners to transfer needed easements voluntarily. There is a possibility that municipalities could prevail upon the state to act in certain situations.

Senator Halford advised that it is amazing that Alaskan communities currently have extra-territorial powers of eminent domain without any apparent check by the state. He said that he had no problem with municipalities going through the state to exercise eminent domain, but to think that a municipality could take by eminent domain the private property of another residing outside the municipality with no vote and no recourse is mind boggling.

Senator Kerttula noted need for cities hoping to acquire electrical, water, or sewer line connections to have "more than

just a convenience section" to acquire that right-of-way when its not in their borders. It ought to be made available through negotiation with the state.

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Senator Halford advised that he had no objection to municipalities acquiring property outside their boundaries if a private owner is willing to sell. He noted, however, that he had problems with municipalities which go outside their boundaries "and take from someone who cannot even vote in that municipality and has no protection other than to come to the state" This appears to load the system against the resident and in favor of municipalities.

Co-chairman Sackett called for a vote on adoption of Amendment No. 5. A show of hands evidenced, Co-chairmen Faiks and Sackett and Senators Ferguson and Kerttula in support. AMENDMENT NO. 5 was thus ADOPTED.

Co-chairman Sackett MOVED for adoption of Amendment No. 6, advising that Senator Coghill was present to speak to the amendment.

SENATOR JACK COGHILL came before committee advising that the amendment would remove new language found at page 164 (Sec. 29.60.140) and return to the status quo through insertion of language found at Sec. 29.89.050 of the municipal code. The Senator noted pending lawsuits in this area relating to unincorporated native villages and "the \$25,000 which has gone to them." The Dept. of Community & Regional Affairs has indicated that current language "is basically what they're doing." The old language, however, identifies what a native village government means.

Senator Coghill advised that he and Representative Goll would be dealing with these statutes during the next session of the legislature, "putting in eight basic steps of government going from the IRA (traditional village councils) . . . through first, second, third class cities."

REPRESENTATIVE PETER GOLL next came before committee in support of the amendment, advising that fine tuning could be accomplished during the coming year.

He brought to committee attention the fact that one of the statutory changes included in SCS CS HB 72 (Jud) is the "waiver of sovereign immunity with regard to the moneys received." Co-chairman Sackett acknowledged that "the waiver is a part of the existing legislation."

JEFF SMITH, Deputy Commissioner, Dept. of Community & Regional Affairs, next came before committee advising that when changes in revenue sharing were made in 1980 the subject language was

included. An attorney general's opinion was later rendered which stated that the language was unconstitutional and the department would be required to provide aid to all unincorporated communities. That opinion was further amended to exclude unincorporated communities located in organized boroughs. The program has been implemented in this manner for the past four years, and the department will continue this implementation whether the amendment is adopted or not. The department will continue to operate the program under the attorney general's opinion that states that "all unincorporated communities outside of organized boroughs should receive this aid.

Senator Halford stated his understanding that in adopting the proposed amendment the committee would be "reinserting language that according to the attorney general is unconstitutional" Mr. Smith concurred, advising that the department has "never implemented that section the way it was written in statute." Co-chairman Sackett noted his understanding that cases relating to the attorney general's opinion are currently progressing through the courts. Sec. 29.60.140 takes the attorney general's opinion and attempts to incorporate it within statute. The Co-chairman expressed a preference for letting the court decide the issue rather than placing language in statute and possibly having to change it later.

Senator Halford stated that he felt the committee should review the attorney general's opinion prior to action on the amendment. Co-chairman Faiks directed that Amendment No. 6 be HELD for later discussion.

Co-chairman Sackett MOVED to WITHDRAW AMENDMENT NO. 4. No objection having been raised, AMENDMENT NO. 4 was WITHDRAWN.

Co-chairman Sackett MOVED for adoption of AMENDMENT NO. 7, explaining that the amendment relates to 29.35.020 (Extra-territorial jurisdiction). Existing law includes public utilities. It was tinkered with in Senate Judiciary and wording relating to utilities was deleted. The proposed amendment would reinsert "utility services" in existing law.

DAVE HUTCHENS, Executive Director, Alaska Rural Electric Cooperative Association, came before committee, advising that the Association proposed, in Senate Judiciary, that "public utilities" be removed from one section and that existing law be reinstated through amendment as a subsequent subsection covering, specifically, extra-territorial powers relating to public utilities.

Co-chairman Sackett directed attention to page 75 of SCS CS HB 72 (Jud), advising that new subsection (c) reflects a "fight between Valdez and some electric utility down there." Mr. Hutchens advised that subsection (c) which is new to the bill in terms of earlier drafts is actually "reenactment of existing law exactly as it is."

JEFF SMITH, Deputy Director, Dept. of Community & Regional Affairs, again came before committee advising of opposition to Senate Judiciary action and support for Co-chairman Sackett's amendment which would reinstate language contained in the bill which issued from Community & Regional Affairs Committee.

TAM COOK, Deputy Director, Legal Division, Legislative Affairs, came before committee explaining that controversy surrounding subsection (c) rests on existing language which allows a municipality which owns or operates a utility to extend services into adjacent areas. By removing subsection (c) and inserting "utility services" into the extra-territorial jurisdiction section under (a), the committee would "remove the limitation that they may only extend utilities into adjacent areas." That was a deliberate change in law made in earlier drafts of the bill. Extension of utilities into "adjacent areas," only, reflects existing law.

Ms. Cook noted that when the issue first arose four or five years ago, municipalities "very, very much wanted to get rid of this limitation on adjacent service because of situations such a Pt. MacKenzie." In Juneau, before the city was unified, if the city wanted to extend services to the valley, and skip areas in between, a problem might have arisen.

Senator Kerttula inquired further concerning problems relating to Valdez. No additional information was available at the present time, and the Senator then requested that AMENDMENT NO. 7 be HELD in committee for later discussion. No objection having been raised, it was so ordered.

Co-chairman Faiks advised that SCS CS HB 72 (Judiciary) would be HELD for later discussion with Amendments 6 and 7 pending.

HB 81

Co-chairman Faiks moved that HB 81 (ACT RELATING TO MOTOR VEHICLE EMISSION INSPECTION) be brought on for discussion, explaining that SCS HB 81 (Finance) contains amending language relating to exemptions at subsection (5) on page 3. The Co-chairman further advised that in light of new exemption language, the bill requires further amendment and directed attention to an amendment which would insert a new Sec. 4 at Page 3, Lines 6 and 7.

The Co-chairman noted that most committee members "don't like the program," but realize that it is mandated. The committee sought through subsection (5) to exempt from the emission control program automobiles which were registered in one locality (Anchorage and Fairbanks) but used elsewhere.

LISA NELSON, Assistant Attorney General, Criminal Division, Dept. of Law, came before committee advising that due to the manner in which the exemption was drafted, it only applied to municipalities of 1,000 or more per provisions in existing law.



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Section-by-Section Analysis

SCS CSHB 72 (Jud)

FOURTEENTH LEGISLATIVE SESSION

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

* Sec. 2.

Sec. 29.03.030 is added to the chapter dealing with the unorganized borough in order to cross-reference the section authorizing the division of lands to act as the platting authority in the unorganized borough.

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

Sec. 29.04.010. No substantive change. (AS 29.08.010)

Sec. 29.04.020. No change. (AS 29.08.020)

Sec. 29.04.030. No change. (AS 29.08.030)

Sec. 29.04.040. (a) The phrase "as provided in this subsection" is deleted as unnecessary. (AS 29.08.040(a))

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

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

(d) No substantive change. (AS 29.08.040(d) and (e))

(e) "Department of Community and Regional Affairs" is altered to read "department". This bill adds "department" to the definitions section and uses that term throughout the

title in place of "Department of Community and Regional Affairs". (AS 29.08.040(f))

Sec. 29.04.050. This deletes the provision for reclassification of a second class borough to a third class borough. The material dealing with a combined assembly and school board is entirely deleted. (AS 29.08.045(a),(b))

Sec. 29.04.060. No substantive change. (AS 29.08.045(a),(c))

* Sec. 4. CHAPTER 05. INCORPORATION.

Sec. 29.05.010. No substantive change (AS 29.18.011)

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

Sec. 29.05.030. (a) This provides for incorporation of a home rule, first class, or second class borough, but not for incorporation of a third class borough. This section contains several technical changes. The term "organized borough" is replaced with "borough" since that is defined. The term "local services" is replaced by "municipal services". The term "local government" is replaced by "borough government" as being more precise since this section deals with the incorporation of boroughs and not cities. (AS 29.18.030)

(b) This is new and provides that an area may not incorporate as a third class borough.

Sec. 29.05.060. "Department of Community and Regional Affairs" is replaced by the word "department" which is defined for the title. The paragraphs are reorganized so that the most general requirements precede the most specific requirements for incorporation. (AS 29.18.050)

(7) Signature requirements apply to home rule and first class cities as a unit and then to the rest of the voters in the area of the proposed borough as another unit. Under existing law only first class cities are treated as a special unit for the purpose of gathering signatures. (AS 29.18.050(10))

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

Sec. 29.05.070. No substantive change. (AS 29.18.060)

Sec. 29.05.080. (a) Combines material currently found in two subsections. Adds requirement that notice of the meeting be published. "Published" is defined for the title. (AS 29.18.070(a) and (c))

(b) No change. (AS 29.18.070(b))

(c) No substantive change. (AS 29.18.080(a))

Sec. 29.05.090. "Department of Community and Regional Affairs" is altered to "department". (AS 29.18.080(b))

Sec. 29.05.100. No substantive change. (AS 29.18.090)

Sec. 29.05.110. This section contains a few minor changes, so that the use of language is consistent throughout the bill. The word "officer" is changed to "official" and that is the term used throughout. Currently, Title 29 uses the terms municipal "officer" and "official" interchangeably. Effective January 1, 1981, the director of elections became responsible for conducting state elections rather than the lieutenant governor and here the responsibility for the election is conferred on the director of elections. (AS 29.18.110)

Sec. 29.05.120. This section is reorganized. Current references to the lieutenant governor are changed to the director of elections. (AS 29.18.120)

(a) Contains material currently found in AS 29.18.120(b).

(b) Contains material currently found in AS 29.18.120(b).

(c) Contains material currently found in AS 29.18.120(b).

(d) Contains material currently found in AS 29.18.120(c).

(e) Contains material currently found in AS 29.18.120(d).

(f) Contains material currently found in AS 29.18.120(e).

Sec. 29.05.130. The phrase "borough assembly or city council" is replaced by the word "municipality". The last line of the current section is dropped as no longer necessary. The provisions of this section apply to all boroughs whether incorporated or organized before or after September 10, 1972. (AS 29.18.130)

Sec. 29.05.140. Minor wording changes are made to improve readability and to insure that terms are used consistently throughout the title. (AS 29.18.140)

(d) This is added to clarify that the section applies to home rule and general law municipalities, however, this is not a substantive change because the section currently applies to home rule municipalities under AS 29.13.100(2).

Sec. 29.05.150. No substantive change. (AS 29.18.150)

Sec. 29.05.180. This section now applies only to organization grants for cities incorporated after December 31, 1985. A new section has been added to the bill to deal with organization grants for boroughs. A newly incorporated city or a second class city in the unorganized borough that reclassifies shall be entitled to a first year organization grant of \$50,000 and to a second organization grant of \$25,000. Under existing law, a municipality is entitled to receive \$10 for every voter or \$25,000 minimum, and the municipality receives no grant the second year. (AS 29.18.180)

Sec. 29.05.190. This section deals with organization grants to boroughs only and applies to boroughs incorporated after December 31, 1985. A borough shall be entitled to a first year organization grant of \$300,000; a second year grant of \$200,000; and a third year grant of \$100,000. Under existing law a borough receives \$10 for every voter or a minimum \$25,000 grant. (AS 29.18.180)

Sec. 29.05.200. This is new material establishing an organization grant fund. The Department of Community and Regional Affairs is required to prepare a yearly report on the fund to be presented to the Department of Administration.

Sec. 29.05.210. This is new material which requires the Department of Community and Regional Affairs to determine the population of a newly incorporated borough, help the borough establish an initial assessment and collection

department if it has adopted a sales or use tax; and help the borough to determine the initial assessment roll if the borough has adopted a property tax.

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

Sec. 29.06.010. The phrase "ratified by the qualified voters voting on the question at a regular or special election" is replaced by "ratified by the voters". The word "voter" is defined for the title. References to the lieutenant governor are changed to the director of elections.
(AS 29.73.050)

(d) This is added and applies the section to home rule municipalities. This is not a substantive change since the section is a home rule limitation under AS 29.13.100 (32).

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

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

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

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

Sec. 29.06.050. No substantive change. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying all sections dealing with annexation as home rule limitations. The material contained in sec. 29.06.040 of this bill is currently a limitation on home rule municipalities under AS 29.13.100(26).

Sec. 29.06.090. Adds a provision that a third class borough may not be formed through merger or consolidation.
(AS 29.68.030)

Sec. 29.06.100. The words "existing" and "proposed" are added to make it clear that some requirements refer to an existing municipality and some to a proposed municipality.
(AS 29.68.040)

Sec. 29.06.110. "Department of Community and Regional Affairs" is changed to "department". (AS 29.68.050, 29.68.060, 29.68.070(a))

Sec. 29.06.120. No substantive change. (AS 29.68.070(b))

Sec. 29.06.130. "Assembly or council" is changed to "governing body" which is defined for the title. Material contained in the last sentence under current law is placed into a new subsection (b). (AS 29.68.080)

Sec. 29.06.140. Material currently contained in AS 29.68.090(a) and (b) is combined into (a). The statutory reference in AS 29.68.090(d) is eliminated as unnecessary. References to "lieutenant governor" are changed to "director of elections". (AS 29.68.090)

Sec. 29.06.150. No substantive change. (AS 29.68.100)

Sec. 29.06.160. No substantive change. (AS 29.68.110)

Sec. 29.06.170. This is a new section clarifying that the article on merger and consolidation applies to home rule municipalities. These sections are currently applied to home rule municipalities under AS 29.13.100(27).

Sec. 29.06.190. No substantive change. (AS 29.68.240)

Sec. 29.06.200. No substantive change. (AS 29.68.250)

Sec. 29.06.210. "Unification" is added to make it clear that this is a special type of petition. (b)(1) and (2) are slightly rewritten for clarity. (AS 29.68.260)

Sec. 29.06.220. No substantive change. (AS 29.68.270)

Sec. 29.06.230. No substantive change. (AS 29.68.350(a))

Sec. 29.06.240. This is rewritten for clarity. Under existing law membership is divided between the area outside cities and the area inside cities. This approach is altered so that membership is divided between the area outside home rule and first class cities and the area inside home rule and first class cities in the borough. (AS 29.68.310)

Sec. 29.06.250. (a) No substantive change. (AS 29.68.280)

(b) No substantive change. (AS 29.68.290(a))

(c) No substantive change. (AS 29.68.290(b))

(d) This is new material providing that a resolution or petition for unification is void if insufficient nominations are received for the charter commission.

Sec. 29.06.260. No substantive change. (AS 29.68.300)

Sec. 29.06.270. (a) The question submitted to the voters is whether a charter commission shall be formed, not whether unification shall take place. (AS 29.68.320(a) and (b))

(b) No substantive change. (AS 29.68.320(c))

(c) No substantive change. (AS 29.68.320(d))

Sec. 29.06.280. Reworded to clarify that formation of a charter commission is being considered, not unification. (AS 29.68.330)

Sec. 29.06.290. No substantive change. (AS 29.68.340(a) - (d))

Sec. 29.06.300. No substantive change. (AS 29.68.340(e), 29.68.390(e))

Sec. 29.06.310. No substantive change. (AS 29.68.340(f))

Sec. 29.06.320. The language "at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter" is deleted since this appears elsewhere. Parts have been slightly rewritten for clarification and statutory references to other sections in AS 29.68.350(a)(5) and (7) are deleted as unnecessary. AS 29.68.350(b) is deleted as unnecessary. (AS 29.68.350)

Sec. 29.06.330. Some excessive verbage is eliminated. (AS 29.68.360)

Sec. 29.06.340. No substantive change. (AS 29.68.370)

Sec. 29.06.350. The language "once in at least one newspaper having general circulation distributed within the

borough, if there is a newspaper having general circulation distributed in the borough" is eliminated as unnecessary since "published" is defined for the title. (AS 29.68.380)

Sec. 29.06.360. (a) No substantive change.
(AS 29.68.635(a), 29.68.390(a))

(b) No substantive change. (AS 29.68.390(b))

(c) No substantive change. (AS 29.68.390(c))

(d) No substantive change. (AS 29.68.390(d))

Sec. 29.06.370. The statutory reference to the article on unification is eliminated as unnecessary. (AS 29.68.400)

Sec. 29.06.380. This section is slightly reworded for clarity. (AS 29.68.410)

Sec. 29.06.390. This section is slightly reworded for clarity. (AS 29.68.420)

Sec. 29.06.400. This is reworded for clarity and the statutory reference to the unification article is deleted as unnecessary. (AS 29.68.430)

Sec. 29.06.410. (2) is changed so that it is clear that a unified municipality has the powers of a home rule borough, since a unified municipality is a home rule unit of government. (AS 29.68.440)

Sec. 29.06.420. This is a new section making the provisions dealing with unification applicable to home rule municipalities. Although annexation, merger and consolidation, and dissolution are currently home rule limitations, the sections dealing with unification are not listed as home rule limitations under existing law.

Sec. 29.06.450. No changes other than changes in terminology used consistently throughout in this bill.
(AS 29.68.500)

Sec. 29.06.460. No changes except for minor rewording for clarity. (AS 29.68.510)

Sec. 29.06.470. No changes, except for minor rewording for clarity. (AS 29.68.520)

Sec. 29.06.480. "Department of Community and Regional Affairs" is altered to "department". (AS 29.68.530, 29.68.540)

Sec. 29.06.490. No changes except for minor rewording for clarity. (AS 29.68.550)

Sec. 29.06.500. (a) No change. (AS 29.68.560)

(b) Provides for an administrative appeal of a Local Boundary Commission decision.

Sec. 29.06.510. Material contained in AS 29.68.570(a) and (b) is consolidated into (a). References to the "lieutenant governor" are changed to the "director of elections", who is now in charge of state elections. (AS 29.68.570)

Sec. 29.06.520. The statutory reference contained in existing law is deleted as unnecessary. (AS 29.68.580)

Sec. 29.06.530. This is a new section clarifying that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100(28) makes these sections applicable to home rule municipalities under current law.

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

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

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

Sec. 29.10.030. No substantive change. (AS 29.13.050)

Sec. 29.10.040. (a) This has been reworded slightly, but contains no significant changes. (AS 29.13.010)

(b) No substantive change. (AS 29.13.020)

(c) This is new material providing that if enough nominations for candidates are not filed no election is held on the question of forming a charter commission.

Sec. 29.10.050. Changed to reflect the fact that a charter commission is elected only in an existing municipality considering the question of home rule. For incorporation of a home rule borough, the charter is prepared and filed by the petitioners with the incorporation petition. (AS 29.13.030)

Sec. 29.10.060. The clerk shall have the charter published, which is defined, and shall make copies available. Under existing law the governing body is responsible for publishing a charter. (AS 29.13.040)

Sec. 29.10.070. "Municipal" is deleted as no longer necessary as "voter" is defined. "Regular or special" is deleted since "election" is defined. Adds a provision that a proposed charter for an area shall be voted on at the incorporation election. (AS 29.13.060)

Sec. 29.10.080. (a) The provision that the charter becomes effective on the date the election is certified has been added. (AS 29.13.070)

(b) This is new and authorizes voters to determine if a combined assembly and school board should be retained when voting on adoption of a home rule charter in a third class borough.

Sec. 29.10.090. (a) No substantive change. (AS 29.13.070(b))

(b) This is new providing that if incorporation of a home rule borough is rejected, the proposed charter is rejected as well.

Sec. 29.10.100. The provision that a charter may be amended by initiative referendum has been deleted. The charter is amended as provided in the charter itself. (AS 29.13.080)

Sec. 29.10.200. The following paragraphs contain sections which are added to the limitations of home rule powers:

- (5) unification of municipalities;
- (10) legislative power;
- (11) assembly composition and apportionment (only one section on assembly composition and reapportionment, AS 29.23.021 which is, now sec. 29.60.060, is a limitation under existing law), however, AS 29.20.033 provides that the other section might apply to some home rule municipalities;
- (12) qualifications of members of governing bodies;
- (14) executive power;
- (27) alcoholic beverages;
- (29) regulation of firearms;
- (31) assessment and collection of taxes;
- (32) land use regulation;
- (36) title to vacated areas;
- (38) property taxes (this adds sec. 29.45.450 - 500 and sec. 29.45.550 to the limitations listed under existing law);
- (42) construction;
- (45) general grant land;

The following paragraphs under AS 29.13.100 no longer appear as limitations:

- (4) election and term of mayor;
- (8) municipal elections (material now contained in AS 29.28.010 is not a limitation under this bill; material in AS 29.28.020(b) is expanded so that the notice requirement covers both regular and special elections and the requirement is a limitation under this bill);
- (15) borough building code jurisdiction within cities (the material is deleted from this bill);

- (20) expenditures of borough revenue;
- (25) bond attorneys (the material is deleted from this bill);
- (35) bonded debt for school construction (the material is deleted from this bill);
- (37) zoning of state land for homesite entry (this was repealed in 1979);
- (39) applicability of local platting regulations (the material is deleted from this bill);
- (40) expulsion of borough assemblymen (this material is substantially rewritten and not made binding upon home rule municipalities);
- (41) removal of borough mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);
- (42) expulsion of city councilmen (this material is substantially rewritten and not made applicable as a home rule limitation);
- (43) removal of mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);
- (44) expulsion, removal from office (this material is substantially rewritten and not made applicable as home rule limitation).

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

Sec 29.20.010. Each municipality shall adopt a conflict of interest ordinance. A member of the governing body shall declare a financial interest he has in an official action and ask to be excused. The presiding officer rules on the question and his decision may be overridden. Under existing law an officer or employee is required to disqualify himself from participating in an official action in which he has a substantial financial interest. (AS 29.23.555)

Sec. 29.20.020. "Assembly and council" is altered to "governing body" and the section is divided into subsections for ease of use. (AS 29.23.580)

Sec. 29.20.050. The second sentence is new material, however it does not substantively change existing law since it can be implied that the legislative power of a city is vested in the council. This is applicable as a home rule limitation. (AS 29.23.010)

Sec. 29.20.060. No substantive change. This is made specifically applicable to home rule municipalities, but is a home rule limitation now under AS 29.13.100(3). (AS 29.23.021)

Sec. 29.20.070. "Borough" is dropped before the word "assembly" when it appears and "assembly" is defined for the title. The statutory reference contained in AS 29.23.023(e)(1) is deleted as unnecessary since "unified municipality" is defined. (AS 29.23.023)

Sec. 29.20.080. "Borough" is deleted as unnecessary when it appears before the word "assembly". In (e) "of the Department of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.025)

Sec. 29.20.090. "Borough" is deleted as unnecessary when it appears before "assembly". "Of Community and Regional Affairs", appearing several times in the section, is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect renumbering. (AS 29.23.027)

Sec. 29.20.100. "Borough" is deleted where it appears before "assembly". "Of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.029)

Sec. 29.20.110. Statutory references are altered to reflect new numbering. (AS 29.23.031)

AS 29.20.120. The statutory reference in (1) is deleted since "unified municipality" is defined for the title. Statutory references are revised to reflect new numbering. (AS 29.23.033)

Sec. 29.20.130. No change. (AS 29.23.200(a))

Sec. 29.20.140. This section is substantially rewritten to combine material concerning the qualifications for membership in assemblies with material concerning the qualifications for membership in councils.

(a) Rewritten, but no substantive change. (AS 29.23.050, 29.23.200(b))

(b) Combines material currently found in different sections. (AS 29.23.050, 29.23.200(b))

(c) This contains new material allowing a municipality to establish district residency requirements for members of the assembly or council. Current law allows an assemblyman elected from one district who becomes a resident of another district to serve only until the next regular election. The subsection allows a municipality to provide otherwise by ordinance. It is also made applicable to city councils. Under existing law a council may be elected by district rather than at-large, but no provision deals with the possibility that a councilman might change his district residency. (AS 29.23.050, 29.23.200(a))

(d) New material prohibiting a municipality from limiting the number of terms or number of consecutive terms a voter may serve on the assembly or council, unless the limit is ratified.

(e) This is applicable to both home rule and general law municipalities. Under current law the qualifications for assemblymen are applicable to home rule and general law municipalities but the qualifications for city councilmen are not. (AS 29.23.050, 29.23.200)

Sec. 29.20.150. Combines material dealing with the term of office of members of the assembly with material dealing with the term of office of members of the council.

(a) This is substantially rewritten, however, the only substantive change is that members of the council may serve different terms when allowed by charter, as well as by ordinance. (AS 29.23.040(a), 29.23.200(c))

(b) No substantive change. (AS 29.23.040(a), 29.23.200(c))

(c) The material permitting a different date to be prescribed by charter or ordinance is made applicable to city councils. (AS 29.23.040(b), 29.23.200(c))

(d) This is added as a home rule limitation with respect to city councils. (AS 29.23.040(c))

Sec. 29.20.160. Combines material dealing with assemblies and with councils into one section.

(a) The last line dealing with the presiding officer is new material as it applies to the council. (AS 29.23.060(b), 29.23.240)

(b) The material dealing with the calling of a special meeting is substantively changed. Under existing law a special meeting may not be called unless all members receive 24 hours written notice or, if there is an emergency and all absent members waive the notice. As rewritten, a special meeting may be held if a majority of the members receive 24 hours notice and reasonable efforts are made to notify all members. (AS 29.23.060(a), 29.23.210(a))

(c) A member of the governing body disqualified from voting is considered present for purposes of constituting a quorum. A majority of the membership of a council constitutes a quorum, while under existing law four councilmen constitute a quorum. This is not a substantive change, since a first class city has a council of six members and second class city has a council of seven members. Four councilmen are still required for a quorum. (AS 29.23.060(d), 29.23.210(c))

(d) Actions are adopted by a majority of the total membership of the governing body, while under existing law actions are adopted by a majority of votes authorized on the question. All members vote and unless they are required to abstain by law, while under existing law a member may abstain if permitted by the governing body, and must abstain if he has a substantial financial interest in the question. This section is applicable to city councils as well as to assemblies. (AS 29.23.060(d), 29.23.210(c))

(e) Specifically provides that the journal shall be a public record. (AS 29.23.060(c), 29.23.210(b))

(f) Requires a governing body to determine by ordinance its rules and order of business. (AS 29.23.060(c), 29.23.210(b))

Sec 29.20.170. This allows the governing body to prescribe the manner in which a vacancy occurs in any elected office, other than the office of mayor or member of the school board. The governing body is required to declare an elective office vacant under specific conditions, unless a municipality establishes otherwise by ordinance. (AS 29.-23.060(c), 29.23.080, 29.23.210(b), 29.23.220, 29.23.570)

Sec. 29.20.180. (a) Requires a vacancy to be filled within 30 days unless a different period is established by ordinance. If less than 30 days remain in a term, a vacancy need not be filled, unless filling the vacancy is necessary to preserve a quorum. The material contained in AS 29.23.080 dealing with filling a vacancy in dual assembly council seats has been deleted. (AS 29.23.080, 29.23.220)

(b) This is new material requiring appointments within seven days if needed to preserve a quorum.

(c) No substantive change. (AS 29.23.080, 29.23.220)

Sec. 29.20.220. This section is substantially rewritten to combine material dealing with the mayor of a city with material dealing with the mayor of a borough.

(a) This is a clear statement that the executive power is vested in a mayor, which is only implied with reference to cities under current law. The mayor of a home rule or unified municipality is elected by the voters, which is not a substantive change. (AS 29.23.200(a) and (c), 29.23.240)

(b) This material currently exists with respect to city mayors but not with respect to borough mayors, although these duties may be implied for borough mayors. The language "and is responsible for additional duties and powers prescribed by this chapter or by home rule charter" is new, but is not a substantive change. (AS 29.23.240)

(c) This section is a limitation on home rule municipalities. Under existing law it is not listed as a limitation.

Sec. 29.20.230. This is substantially rewritten in order to combine material dealing with the election and term of a borough mayor and a city mayor.

(a) No substantive change. (AS 29.23.130(c), 29.23.250(b) and (d))

(b) Allows a second class city to provide by ordinance for a term longer than one year for the office of mayor, as long as the mayor is a member of the council. Existing law provides a one-year term of office for the mayor of a second class city. (AS 29.23.250(c) and (d))

(c) This is new material providing that the number of terms or number of consecutive terms a mayor may serve may not be limited.

Sec. 29.20.240. Rewritten to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.130(b), 29.23.250(a) and (c))

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated. This section is not a limitation on home rule governments, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority. (AS 29.23.130(b), 29.23.250(a))

Sec. 29.20.250. This is rewritten to combine sections dealing with a city and sections dealing with a borough, and to achieve a clear statement of existing law.

(a) No substantive change. (AS 29.23.130(a), 29.23.290)

(b) Authorizes the mayor of a borough with a manager form of government to vote in the case of a tie. The fact that a mayor may take part in discussions is not stated with respect to the mayor of a city under existing law. (AS 29.23.160, 29.23.260)

Sec. 29.20.260. No change, except for minor rewording for clarity. (AS 29.23.150)

Sec. 29.20.270. This is substantially rewritten in order to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.270(a))

(b) The material requiring that a veto be overridden within 21 days after the exercise of the veto or during the next regular meeting is new. Current law does not specify a time period during which a veto may be overridden.
(AS 29.23.170(a), 29.23.270(a))

(c) A veto does not extend to actions of a city council sitting as a board of equalization or a board of adjustment, nor may the city mayor veto the adoption or repeal of a manager form of government. Current law is silent as to these issues with respect to a city. (AS 29.23.170(a) and (b), 29.23.270)

(d) No change. (AS 29.23.270(b))

Sec. 29.20.280. (a) Under existing law the governing body has the option of declaring the office of mayor vacant when he is convicted of a corrupt practice. (AS 29.23.130(f), 29.23.255, 29.23.570)

(b) No substantive change. (AS 29.23.180, 29.23.280(a))

(c) No substantive change. (AS 29.23.280(b))

Sec. 29.20.300. The statutory reference to a repealed section is deleted. School board members may be elected by area rather than at-large, if approved by the voters.
(AS 29.23.310)

Sec. 29.20.310. No change, except for minor rewording so the usage is consistent throughout the title.
(AS 29.23.340)

Sec. 29.20.320. This is new material allowing the governing body to establish boards and commissions. Arguably, this power is implied to exist in current law as part of the ability of a governing body to delegate responsibility.
(AS 29.48.010(1))

Sec. 29.20.360. Certain officials shall be appointed by the chief administrator unless otherwise provided by ordinance.

Under current law these officials are appointed by the chief administrator or by the governing body as determined by ordinance. Current law provides that appointments by the chief administrator are subject to confirmation, and this section allows a municipality to provide otherwise by ordinance. (AS 29.23.360)

Sec. 29.20.370. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.23.370)

Sec. 29.20.380. No change, except for minor rewording in order to achieve consistent usage. (AS 29.23.380)

Sec. 29.20.390. The statutory reference is added to provide notice that, when a central treasury is established for the school board and the municipality, the treasurer is not custodian of the funds. (AS 29.23.390)

Sec. 29.20.400. Slightly reworded for clarity. (AS 29.23.070)

Sec. 29.20.410. Allows the governing body to provide for a classified service and to designate positions which are wholly or partially exempt from the classified service. (AS 29.23.550)

Sec. 29.20.460. No change, except for minor rewording to achieve consistent usage. (AS 29.23.410, 29.23.420)

Sec. 29.20.470. The last line dealing with notice requirements is omitted because notice requirements for elections are now contained in Sec. 29.26.030. At least 20 days notice shall be provided, while under current law 30 days notice is required before an election to adopt a manager plan. (AS 29.23.430)

Sec. 29.20.480. No change, except for minor rewording to achieve consistent usage. (AS 29.23.440)

Sec. 29.20.490. In the second line the word "solely" and the word "executive" have been omitted, so that the manager is to be chosen on the basis of his administrative qualifications. A member of the governing body may not be appointed manager until one year after leaving office unless authorized by more than a majority vote. Under existing law

this limitation applies to all elected municipal officials.
(AS 29.23.450, 29.23.460)

Sec. 29.20.500. This is substantially rewritten so that material dealing with duties of a city manager and material dealing with duties of a borough manager are combined. A statutory reference to the section concerning appointment of school employees is added for clarification. The requirement that the manager prepare and make available to the public an annual report on municipal affairs is deleted. AS 29.23.140(10)(A) and (C), requiring the borough manager to administer functions of borough employees and to administer public works is deleted because those requirements appear adequately covered by (1) and (5) of this section.
(AS 29.23.140, 29.23.290)

Sec. 29.20.510. Rewritten slightly for clarity.
(AS 29.23.130(e))

Sec. 29.20.520. After repeal of a manager plan, the governing body has 60 days to reorganize the municipal executive and administrative functions. Under existing law, no time period is provided for reorganization. (AS 29.23.480)

Sec. 29.20.600. No change, except for rewording to achieve uniform usage. (AS 29.23.500)

Sec. 29.20.610. No change, except for minor rewording to achieve uniform usage. (AS 29.23.520)

Sec. 29.20.620. A method of determining salaries shall be provided by ordinance, while under current law the governing body fixes by ordinance the salaries of elected officials. The salary of the mayor may be reduced during his term of office if a manager plan is adopted. An elected official may not receive compensation for additional service to the municipality, unless provided otherwise by ordinance.
(AS 29.23.530)

Sec. 29.20.630. Municipal employment is added in AS 29.23.540(a). Subject to requirements contained in the title dealing with education, a school district employee, or state employee may not be denied the right to serve as an elected municipal official. Current law allows a municipality to prohibit the right to serve by charter or ordinance. (AS 29.23.540)

Sec. 29.20.640. No changes, except for rewording for consistency and changes in statutory references to reflect renumbering. (AS 29.23.560)

* Sec. 8. CHAPTER 25. MUNICIPAL ENACTMENTS.

Sec. 29.25.010. The governing body is no longer required to fix the compensation of members of the assembly or council by ordinance, nor is it required to regulate the rate charged by a public utility by ordinance. (AS 29.48.130)

Sec. 29.25.020. This is substantially reorganized, but contains no substantive changes. (AS 29.48.140, 29.48.150)

Sec. 29.25.030. No change, except for minor word changes in order to achieve maximum clarity. (AS 29.48.160)

Sec. 29.25.040. Requires the governing body to see that the adopted code is made available to the public at no more than cost, while existing law requires the governing body to provide for the adopted code to be sold to the public. (AS 29.48.170)

Sec. 29.25.050. (b) allows the designee of the municipal clerk to prepare a general codification of municipal ordinances and deletes the requirement that the codification be prepared with the assistance of a legal advisor. The rest of the section is unchanged. (AS 29.48.180)

Sec. 29.25.060. This has been made applicable as a home rule limitation. (AS 29.48.185)

Sec. 29.25.070. A penalty not to exceed a fine of \$1,000 and imprisonment for 90 days may be imposed for a violation of an ordinance. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. The municipality or aggrieved person may institute a civil action against a person who violates an ordinance, and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and, upon a finding of a violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues is a separate violation. These penalties are authorized only if copies of the ordinance are made available. (AS 29.48.200)

* Sec. 9. CHAPTER 26. ELECTIONS.

Sec. 29.26.010. A judge shall be a voter of the precinct for which he is appointed unless no voter is willing to serve. The language "the municipality may not alter voter qualification requirements of this title" is deleted as unnecessary. This is no longer a limitation on home rule municipalities. (AS 29.28.010)

Sec. 29.26.020. The language "subject to other provisions of this title" is added because other sections in the title provide a procedure for the nomination of candidates, for example, see secs. 29.06.250 and 29.10.040. (AS 29.28.015)

Sec. 29.26.030. At least 20 days notice of a regular or special election is required. This applies as a limitation on home rule municipalities, whereas under existing law only the notice requirement for a special election applies. (AS 29.28.020(b))

Sec. 29.26.040. No change, except for minor rewording for clarity. (AS 29.28.020(a))

Sec. 29.26.050. This has been reorganized. To qualify to vote in municipal elections a person must have been registered to vote in state elections for at least 30 days preceding the municipal election. Existing law requires only that the person be registered to vote in state elections without a durational requirement. A municipality may require a person to be registered to vote in the precinct in which he seeks to vote. (AS 29.28.030)

Sec. 29.26.060. The runoff election requirement is limited to the office of mayor, member of the governing body, or school board and the municipality may adopt an ordinance to alter this runoff requirement. A runoff election shall be held three weeks after the date of certification of the original election, rather than within two weeks, and is between the two candidates that received the greatest number of votes for the seat. (AS 29.28.040)

Sec. 29.26.070. This has been rewritten for clarity. A requirement that the governing body authorize the election results to be certified is added in (c). The provision that expulsion of certain officials is final and not subject to judicial review contained in AS 29.28.050(f) is deleted. In this bill there is no provision denying judicial review in cases involving the declaration of vacancy in office. (AS 29.28.050)

Sec. 29.26.100. No substantive change. (AS 29.28.060)

Sec. 29.26.110. This is new material establishing a process for applying for a petition for initiative or referendum. An application is signed by ten voters who sponsor the petition. If the clerk finds that an application is in proper form and that the four listed requirements are met, he shall certify the application. A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Within two weeks after certification of application a petition is prepared by the municipal clerk. Signatures must be obtained within 60, rather than 90 days from the date the petition is first circulated. Spaces are provided for signatures, the printed name of each signer, the date signature is affixed, and the residence and mailing addresses of each signer. Each petition contains a statement that the sponsor circulated the petition, that all signatures were fixed in his presence, and that he believes the signatures to be those of the persons whose names they purport to be. Spaces are provided for indicating the total number of signatures on a petition. If the petition consists of more than one page, each page contains a summary of the matter to be initiated or referred. Copies of the petition are supplied to each sponsor. (AS 29.28.065)

Sec. 29.26.130. Signatures must be secured within 60, rather than 90 days. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The number of signatures required remains identical to the number required under current law, except that no provision is made for signatures only from persons in services areas or outside cities when the matter to be initiated or referred applies only to the service area or area outside cities. Illegible signatures must be rejected by the clerk, whereas under existing law they may be rejected. A signer may withdraw his signature before certification of the petition, whereas under existing law he may only withdraw his signature within 7 days after the petition is filed. (AS 29.28.070)

Sec. 29.26.140. All copies of a petition are filed as a single instrument. An insufficient petition may be supplemented only with signatures obtained within ten days after the date the petition is rejected, while under current law there is no requirement that the signatures be obtained during this period. (AS 29.28.073)

Sec. 29.26.150. No change, except for minor rewording for consistency. (AS 29.28.075)

Sec. 29.26.160. "On substantially the same matter" has been added so that it is clear that the waiting period for filing a new petition does not apply if the petition sought to be filed deals with a different subject. (AS 29.28.077)

Sec. 29.26.170. Unless the same measure is adopted, the clerk submits a petition seeking an initiative vote to the voters at the next regular election occurring no sooner than 45 days after certification of the petition, or, if no regular election occurs within 75 days, a special election is held. If the governing body adopts the same measure, the petition is void and the subject is not placed before the voters, while under existing law the governing body may not adopt an ordinance or resolution within 10 days from the date of election. If the vote is favorable, the ordinance or resolution becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution, while under existing law an ordinance or resolution becomes effective when the election results are declared. There is no provision for the governing body to reject a petition, as there is in current law. (AS 29.28.080)

Sec. 29.26.180. When a petition seeks a referendum vote the clerk shall submit the matter to the voters in the same manner as provided for an initiative election. Under current law the vote is held during the next regular or special election, or within 75 days of filing the petition. If a petition is certified before the effective date of the matter referred, the ordinance or resolution is suspended, while under existing law the suspension occurs if a sufficient petition is filed within 30 days after passage of the ordinance or before the effective date of the ordinance. If the governing body repeals the ordinance or resolution, the petition is void and no election is held. If a majority vote does not favor repeal of the matter referred, it remains in effect, or, if it has been suspended becomes effective upon certification of the election. Existing law is silent as to the effective date of a suspended ordinance in this situation. (AS 29.28.090)

Sec. 29.26.190. If adopted in an initiative election or if adopted after a petition has been filed, an ordinance or resolution may not be repealed or amended within one year.

If an ordinance or resolution is repealed in a referendum election, or after a petition has been filed, similar legislation may not be enacted for a period of one year. Existing law provides that the governing body may not act in any way within two years to modify or negate the effect of a successful initiative or referendum and if an ordinance has been repealed after a petition has been filed, the governing body may not enact similar legislation for one year. (AS 29.28.110)

Sec. 29.26.240. This is broadened to include an official appointed to elected office, because when a vacancy occurs an official may, in certain cases, be appointed. He will be subject to recall just as an elected person would be. An official may be recalled when he has served 120 days of a term for which elected or appointed, while under existing law there is some ambiguity as to the status of an official who is reelected to the same office. (AS 29.28.130)

Sec. 29.26.250. No change. (AS 29.28.140)

Sec. 29.26.260. This is new material establishing a procedure for applying for a recall petition. The application must contain information concerning 10 voters who will sponsor the petition, the address to which correspondence relating to the application may be sent, and a statement in 200 words or less of the grounds of the recall. Additional sponsors may be added.

Sec. 29.26.270. A recall petition is prepared by the clerk. It contains the names of the official sought to be recalled, the grounds for recall, the date the petition is issued by the clerk, notice that the signatures are secured within 60 days after the date the petition is issued (while under existing law a petition must be filed within 60 days after the date of the earliest signature on it), spaces for signatures, printed name, date of each signature, and residence and mailing addresses of each signor, a statement that the sponsor personally circulated the petition, all signatures were fixed in his presence, and he believes the signatures to be those of the persons they purport to be, and space for indicating the number of signatures on the petition. Copies of the petition are provided to each sponsor. (AS 29.28.150)

Sec. 29.26.280. Signatures are secured within 60 days after a recall petition is issued. Signatures not accompanied by

a legible residence address are rejected. The clerk determines the number of signatures required and informs each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of voters residing in the district equal to 25 percent of the number of votes cast in that district for the office. Under existing law signature requirements are identical to the requirements for initiative and referendum. (AS 29.28.150, 29.28.160)

Sec. 29.26.290. Copies of a recall petition are filed as a single instrument. An insufficient petition may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, while under existing law there is no requirement that the signatures be obtained during that time period. A petition which does not contain an adequate number of signatures, both valid and invalid signatures, may not be supplemented and this is a new provision not contained in existing law. (AS 29.28.160, 29.28.170)

Sec. 29.26.300. Reworded so that it is clear that the six-month waiting period before a new petition may be obtained applies only to a petition seeking to recall the same official. (AS 29.28.180)

Sec. 29.26.310. No change, except for minor rewording for consistency. (AS 29.28.190)

Sec. 29.26.320. The requirement that an election to recall an official not be held sooner than 45 days after submission of the petition to the governing body is added. The governing body may not appoint to the same office an official who resigns after a petition is filed. (AS 29.28.200)

Sec. 29.26.330. The grounds for recall must be stated in 200 words or less. (AS 29.28.210)

Sec. 29.26.340. The provision that an office becomes vacant upon certification of the election is added. (AS 29.28.230, 29.28.240)

Sec. 29.26.350. When an official is recalled, his office is filled in accordance with the provision dealing with

vacancies. If all members of a governing body are recalled the governor appoints three persons and they appoint additional members needed to fill vacancies in accordance with the provisions dealing with vacancies. If all members of the school board are recalled the governor appoints three persons and they appoint additional members to fill remaining vacancies. A person appointed by the governor serves until a successor is elected. After an official is recalled, the clerk conducts an election for a successor. The election is held not more than 60 days from the date the recall election is certified unless a regular election is held within 75 days, in which case the successor is chosen at the regular election. Nominations may be filed until seven days before the last date upon which notice of the election must be published, but they may not be filed until the election is certified. Under existing law the election of successor shall be held at least ten but not more than 45 days from the date of the recall election and there are no provisions dealing with a situation involving the recall of all members of the governing body or school board.
(AS 29.28.250)

Sec. 29.26.360. The sections dealing with recall are made applicable as limitations on home rule municipalities, and are currently limitations under AS 29.13.100(9).

*Sec. 10. CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

Sec. 29.35.010.

- (1) No change. (AS 29.48.010(2))
- (2) No change, except for rewording due to a change in organization. (AS 29.23.510)
- (3) No change. (AS 29.48.010(1))
- (4) Minor rewording. (AS 29.48.010(5))
- (5) Minor rewording. (AS 29.48.010(3))
- (6) "and impose liens for their enforcement" is added. (AS 29.48.010(7))
- (7) No change. (AS 29.48.010(8))

(8) "for a purpose authorized under this title, federal law, or other law, or in accordance with such law" is deleted as excessive verbage. (AS 29.48.010(9))

(9) "facility or service" is added.
(AS 29.48.010(11))

(10) This is added as a general power. Under existing law the power may be exercised by a first class borough on a nonareawide basis, so long as the borough seeks to have it transferred from cities or proposes joint city/borough exercise of the power. A first class borough may exercise the power on an areawide basis if it is assumed. A second class borough may exercise the power on an areawide or nonareawide basis if it is assumed. (AS 29.38.010, 29.48.035(a) and (b))

(11) No change. (AS 29.48.010(12))

(12) Minor rewording. (AS 29.48.010(10))

(13) Minor rewording. (AS 29.48.010(4))

(14) No change. (AS 29.48.010(6))

Sec. 29.35.020. A municipality may not exercise outside of its boundaries a power which it may not exercise within its boundaries. The word "roads" has been changed to "streets" which is defined for the title. The following have been included within the list of facilities which a municipality may provide outside its boundaries: solid and septic waste facilities, transportation facilities, wharves, harbors and other marine facilities. A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Existing law provides that a municipality may regulate a facility outside its boundaries, and provides no right for the municipality within which the facility is located to regulate it. (AS 29.48.037, 29.48.040)

Sec. 29.35.030. This deletes the requirement that a second class city obtain formal approval of the Department of Community and Regional Affairs, before exercising eminent domain and declaration of taking. This is a limitation on home rule municipalities, and is an existing limitation under AS 29.13.100(29). (AS 29.73.020)

Sec. 29.35.040. This becomes applicable when a disaster is declared by the governor as well as by the President. Since (a) allows a municipality within a disaster area to exercise the powers in the same manner as a home rule city, the subsection providing that differences between areawide and non-areawide powers do not apply has been eliminated as redundant. (AS 29.48.270)

Sec. 29.35.050. This is reorganized and minor changes are made to the wording for clarity. The phrase "provide the charges for collection and disposal shall be paid by the property owner or occupants of the premises" is eliminated as implied within the specified ability to fix charges. (AS 29.48.033)

Sec. 29.35.060. (a) The language "for the construction, operation and maintenance of bus transportation systems and public utilities" is eliminated, so that franchises and permits may be granted without restrictions as to type of franchise involved. This applies only to an entity not certificated by the Alaska Public Utilities Commission. (AS 29.48.050(a))

(b) Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of any exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system which is not certificated is valid only if approved by vote. Under existing law no franchise is valid unless it is submitted to the qualified voters for approval. The material dealing with use of streets by utilities contained in AS 29.48.050(c) is deleted. (AS 29.48.050(b))

Sec. 29.35.070. The governing body may regulate rates and charges of a utility that is not subject to regulation under AS 42.05 exempted from regulation or. Under existing law, a municipality may regulate only a municipally owned utility which is not regulated by the state. This section applies as a home rule limitation, and is an existing limitation under AS 29.13.100(17). (AS 29.48.060, 29.48.070)

Sec. 29.35.080. Requires municipal regulation of alcoholic beverages to conform to state requirements and is made a home rule limitation. (AS 29.48.035(a)(10))

Sec. 29.35.090. The governing body is required by ordinance to establish a formal procedure for acquisition and disposal

of land. The provisions authorizing a municipality to acquire, hold and dispose of real property are deleted as unnecessary. The provisions dealing with the requirements which must be met in the formal procedure established for disposal of land have been eliminated to provide more flexibility. The provisions dealing with restricting land to agricultural use have been deleted. (AS 29.48.260)

Sec. 29.35.100. Under existing law, obligations requiring payment of funds from appropriations of later years must be approved by ordinance. This has been eliminated as misleading in that it could be construed to suggest that bonded indebtedness may be acquired, whether or not for a capital project, so long as the indebtedness is approved by ordinance. AS 29.48.190(d) is eliminated as unnecessary. (AS 29.48.190)

Sec. 29.35.110. This is rewritten for clarity.
(AS 29.48.210)

Sec. 29.35.120. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.48.220)

Sec. 29.35.130. No substantive change. (AS 29.73.080)

Sec. 29.35.140. No substantive change. (AS 29.48.036)

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

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

Sec. 29.35.160. No change, except for minor rewording to achieve consistent usage. This is a home rule limitation, and exists as a limitation under AS 29.13.100(34). (AS 29.33.050)

Sec. 29.35.170. The subsection dealing with collection by a borough of taxes levied by a city is made applicable as a limitation on home rule municipalities. (AS 29.33.030)

Sec. 29.35.180. This is a new statement requiring first and second class boroughs to provide for planning and land use