

LEG. FINANCE - BILLS 1985 - 1986 2318

CSHB 72 cont. - HB 72

2318

regulation under provisions of Chapter 40 so that this article will contain a complete list of areawide powers. A home rule borough is required to provide for planning, platting, and land use regulation.

Sec. 29.35.200. (a) Allows a first class borough to exercise on a nonareawide basis any power not otherwise prohibited by law. Under existing law a first class borough may exercise on a nonareawide basis any general law municipal power, but before exercising the power, the borough must seek to have it transferred from cities or propose joint city/borough exercise. (AS 29.38.010)

(b) No change. (AS 29.48.030, 29.48.035(b))

(c) Allows a first class borough to exercise on an areawide basis any power not prohibited by law if it has been acquired. Under existing law, a first class borough may acquire additional areawide municipal powers, but only the powers listed in Title 29. The authority to acquire powers which is granted in this bill is broader, since a borough may acquire any power not specifically prohibited by statute whether or not it is identified as a municipal power in Title 29. (AS 29.33.250)

Sec. 29.35.210. (a) Allows a second class borough to exercise certain powers on a nonareawide basis. Under existing law before a nonareawide power may be exercised, the borough must seek to have it transferred from cities or propose joint borough/city exercise of the power, and the requirement is not contained in this bill. (AS 29.38.020)

(1) No change. (AS 29.48.030(a)(12))

(2) No substantive change. (AS 29.48.020(1))

(3) No change. (AS 29.48.020(2), 29.48.035(a)(5) and (b))

(4) Under existing law this power is subject to the section dealing with garbage and solid waste, sec. 29.35.050 of this bill. (AS 29.48.020(5))

(5) Under existing law providing air pollution control is permitted on an areawide basis only. (AS 29.48.035(a)(18) and (b))

- (6) No change. (AS 29.48.020(6), 29.48.035(a)(17) and (b))
- (7) Minor rewording. (AS 29.48.020(7))
- (8) This is new material.
- (9) No change. (AS 29.48.020(8))
- (10) No change. (AS 29.48.020(9))

Under existing law a second class borough may exercise the following additional nonareawide powers not specified in this bill:

- (1) powers approved at incorporation (AS 29.38.020);
- (2) regulate snow vehicles, subject to other law (AS 29.48.020(4));
- (3) licensing of day care facilities (AS 29.48.035(a)(20) and (b)).

(b)(1) No change. (AS 29.48.030(12))

- (2) No change. (AS 29.48.035(a)(5) and (b))
- (3) No change. (AS 29.48.035(a)(18) and (b))
- (4) No change. (AS 29.48.035(a)(17) and (b))
- (5) No change. (AS 29.48.035(a)(20) and (b))

(c) Allows a second class borough to exercise a nonareawide power not otherwise prohibited by law if the exercise of the power is approved by the voters living in the borough area outside the cities. Under existing law a second class borough may acquire additional nonareawide powers upon approval of the voters. However, the powers which may be acquired are limited to those itemized in Title 29, so under this bill broader authority to acquire powers is provided. (AS 29.38.030, 29.38.040, 29.38.050)

(d) Allows a second class borough to exercise an areawide power not otherwise prohibited by law if the exercise of the power is approved by the voters or transferred by the cities

in the borough. Under existing law a borough may acquire only the powers authorized in Title 29. (AS 29.33.250)

Sec. 29.35.220. (a) No substantive change.  
(AS 29.41.010(c))

(b) No substantive change. (AS 29.41.010(a))

(c) No substantive change. (AS 29.41.010(b))

(d) A third class borough may acquire any power not prohibited by law for exercise in a service area.  
(AS 29.41.010(b))

Sec. 29.35.250. This expands the authority of the city to exercise powers, since under existing law a city may only exercise listed municipal powers. A city may not exercise a power once that power has been exercised on an areawide basis by the borough. Existing law is in conflict as to whether a city may exercise a power being exercised on an areawide basis by the borough. In one section, existing law provides that the city may not do so, while in another section it provides that a city may exercise the power if the borough by ordinance permits exercise of the power by the city or ceases to exercise the power. (AS 29.33.010(b), 29.43.040(b), 29.48.035(b))

Sec. 29.35.260. (a) A city outside a borough may exercise a power not otherwise prohibited by law. Under existing law, a city is granted only enumerated powers, so this is a broader authorization. (AS 29.43.010)

(b) Minor rewording. (AS 29.43.030)

(c) Requires a home rule city to provide for planning, platting, and land use regulation but it does not have to comply with Chapter 40. General law cities that provide for land use regulation must do so in accordance with Chapter 40. (AS 29.43.040)

(d) This is new making the section applicable as a home rule limitation. Under existing law material contained in (c) is not a limitation on home rule municipalities.

Sec. 29.35.300. Combines material dealing with the acquisition of areawide and nonareawide powers. (AS 29.33.250, 29.41.010)

Sec. 29.35.310. No change, except for minor rewording for consistent usage. (AS 29.33.260)

Sec. 29.35.320. Provides that a petition shall be filed with the borough clerk who certifies whether it contains sufficient signatures. After certification the assembly orders an election to be held within 60 days of the order, while under existing law, the election is held at least 30 days after the order, but not later than the next regular election. (AS 29.33.270, 29.33.280, 29.33.290(a), 29.38.030, 29.38.040, 29.38.050(a), 29.41.010(b))

Sec. 29.35.330. No change, except for minor rewording to achieve consistent usage. (AS 29.33.290(b) and (c), 29.38.050(b) and (c))

Sec. 29.35.340. Reorganized, but no substantive change. (AS 29.33.290(c))

Sec. 29.35.400. No substantive change. (AS 29.48.310)

Sec. 29.35.410. No substantive change. (AS 29.48.320)

Sec. 29.35.420. No substantive change. (AS 29.48.330)

Sec. 29.35.450. (a) Allows a borough to include a city in a service area if the city council agrees by ordinance or if approval is granted by a majority of voters residing in the city and by a majority of voters residing outside the city, but within the service area boundaries. Existing law is silent as to whether a city may be included within a service area. (AS 29.63.090(a))

(b) No change. (AS 29.63.090(d))

Sec. 29.35.460. No substantive change. (AS 29.63.090(c))

Sec. 29.35.470. No substantive change. (AS 29.63.090(b) and (e))

Sec. 29.35.480. No substantive change. (AS 29.63.090(a) and (e))

Sec. 29.35.490. New material has been added to allow owners of real property within a service area to consent in writing to the exercise of a power if no voters reside within the service area. (AS 29.41.010(b), 29.63.090(a) and (e))

(b) No change. (AS 29.41.010(b), 29.68.010(f))

Sec. 11. CHAPTER 40. PLANNING, PLATTING, AND LAND USE  
REGULATION.

The word "zoning" has been replaced by the phrase "land use regulation" throughout the title in order to confer broader planning powers on municipalities. The term "land use regulation" allows a municipality to use a variety of planning tools which might not necessarily be regarded as falling within traditional "zoning" practices.

Sec. 29.40.010. The assembly may delegate any of its planning responsibilities to a city if the city consents by ordinance. The assembly may, without obtaining the consent of the city, revoke the power delegated. Under existing law, there is no requirement that a city consent to the delegation of planning power. (AS 29.33.070)

Sec. 29.40.020. Membership on the planning commission shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in those cities. Under existing law membership is apportioned so that the number of members from first class cities reflects the proportion of borough population residing in first class cities, but the population of home rule cities is not taken into account. The planning commission shall prepare measures necessary to implement the comprehensive plan, while under existing law the planning commission is required to prepare a zoning ordinance to implement the plan. Under this bill, the planning commission has authority to utilize methods other than zoning to implement a plan. (AS 29.33.080(a) and (b))

Sec. 29.40.030. This is reorganized and reworded for clarity. After receiving the recommendations of the planning commission, the assembly is required periodically to undertake an overall review of the plan and update it as necessary. Under existing law, the planning commission is required to undertake an overall review of the plan at least once every two years and present recommendations to the assembly. (AS 29.33.085)

Sec. 29.40.040. (a) This is substantially new material. It requires the assembly to implement a comprehensive plan through zoning regulations, land use permit requirements, or

other methods. The material dealing with "contract zoning" has been eliminated. The list of items for which zoning may be used in AS 29.33.090(b) and (c) has been eliminated. The material contained in AS 29.33.090(e), allowing a business licensed by the Alcoholic Beverage Control Board to continue to operate before the adoption of the zoning ordinance, is eliminated. (AS 29.33.090(a))

(b) No substantive change. (AS 29.33.110(c))

Sec. 29.40.050. (a) Requires the assembly to provide for an appeal from the application of a land use regulation. Under existing law, the board of adjustment hears appeals. (AS 29.33.110(b))

(b) Allows the assembly to provide for the appointment of hearing officers or of a board of adjustment to hear appeals. Under existing law, the assembly is the board of adjustment, but may delegate its functions. (AS 29.33.110(a))

Sec. 29.40.060. (a) Allows for an appeal from a decision dealing with land use regulation. Under existing law, appeals are limited to decisions from the board of adjustment. (AS 29.33.130(a) and (b))

(b) An appeal from a land use regulation is an administrative appeal. The provision in AS 29.33.130(c), that an appeal stays enforcement proceeding unless the court issues an enforcement order, has been eliminated. (AS 29.33.130(d) and (e))

Sec. 29.40.070. Material in paragraph (4) dealing with dedication of rights-of-way and easements is added. (AS 29.33.150(a))

Sec. 29.40.080. This is new material requiring the assembly to establish a platting authority. Under existing law, the planning commission acts as platting authority. The material contained in AS 29.33.150(b) dealing with subdivisions of state land, is eliminated. (AS 29.33.150(a))

Sec. 29.40.090. (a) This is new and requires the assembly to establish an abbreviated plat procedure for plats meeting certain requirements.

(b) Requires waiver of plat requirements if a subdivision meets requirements for an abbreviated plat and each lot is five acres or larger. (AS 29.33.170)

Sec. 29.40.100. Rewritten for clarity. (AS 29.33.180)

Sec. 29.40.110. This is rewritten for clarity. Material dealing with filing a preliminary subdivision plat contained in AS 29.33.160(c) has been eliminated. (AS 29.33.160(a) and (b))

Sec. 29.40.120. Allows a plat to be altered upon petition of the state, the borough, a public utility, or the owners of a majority of the land affected. Existing law allows a plat to be altered only upon petition of the owners of a majority of the land or by the platting board. A platted street may be vacated upon petition of the state, the borough, a public utility, or owners of the majority of the land fronting the portion of the street sought to be vacated. Under existing law, only the municipality or owners of the majority of the land fronting the part of the street sought to be vacated may petition to vacate a street. (AS 29.33.200)

Sec. 29.40.130. Requires the platting authority to publish notice of a hearing for a replat petition. "Published" is defined to require publication once in a newspaper of general circulation or posting in three public places. Under existing law, notice is required to be published once a week for two consecutive weeks. (AS 29.33.210)

Sec. 29.40.140. Rewritten for clarity. (AS 29.33.220)

Sec. 29.40.150. Requires a plat to be acknowledged and filed by the recorder with a certificate that taxes have been paid. (AS 29.33.230)

Sec. 29.40.160. Minor rewording. The material in (a) - (c) has been applied as a home rule limitation. None of this section is a limitation under existing law. (AS 29.33.240)

Sec. 29.40.170. Rewritten for clarity. (AS 29.33.245)

Sec. 29.40.180. For violations involving land use regulation a municipality may by ordinance prescribe a penalty not to exceed a fine of \$1,000 and imprisonment for 90 days. (AS 29.33.190)

Sec. 29.40.190. A civil action may be initiated against a person who violates a section of law of the chapter dealing with land use regulation, a subdivision regulation or a term imposed by the platting authority. An action to enjoin may be brought and the superior court shall grant an injunction upon a finding of violation or threatened violation. In addition, a civil penalty not to exceed \$1,000 may be imposed and each day that an unlawful condition continues constitutes a separate violation. Under existing law, a person who transfers land in a subdivision before a plat has been recorded, and a person who records a plat which has not been approved by the platting board may be punished by a fine of not more than \$500. (AS 29.33.190)

Sec. 29.40.200. Made applicable to home rule municipalities. Under existing law only the material contained in (a) of this section is a home rule limitation under AS 29.13.100(39). (AS 29.33.150(b) - (g))

Sec. 12. CHAPTER 45. MUNICIPAL TAXATION.

Sec. 29.45.010. Authorizes a municipality to levy a property tax on real or on personal property. The distinction between areawide and nonareawide property taxes as applied to a unified municipality is eliminated. A property tax may be levied in a service area for functions in the service area. Cross-references to the provisions dealing with the taxing power of cities are added. (AS 29.53.010)

Sec. 29.45.020. No substantive change. (AS 29.73.070(a) and (c))

Sec. 29.45.030. Household furniture is exempt from taxation without regard to the value of the furniture. Property of an auxiliary of a nonbusiness organization is exempt. Under existing law, lots supporting and adjacent to a structure used for religious purposes are exempt from taxation. That exemption is eliminated. Property from which income is derived is exempt if used by nonprofit educational groups for classroom space, or by nonprofit religious, charitable or hospital groups. Under existing law, there is some ambiguity as to whether property, other than property used for classroom space, is exempt. An exemption for real property owned as a permanent place of abode by a resident 65 years of age or over or a disabled veteran may not be granted except upon written application. Under existing law, there is some ambiguity as to whether any exemption may be granted

without a written application. One motor vehicle per household owned by a resident 65 years of age or older is exempt. (AS 29.53.020)

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

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

Sec. 29.45.050. (a) No change, except "regular or special" is deleted since "election" is defined. (AS 29.53.025(a))

(b) Eliminates the requirement that a tax based upon tonnage not exceed five dollars a year for a boat of less than five net tons, and not exceed fifteen dollars a year for a boat of more than five tons. The optional exemption of household furniture over five hundred dollars in value has been eliminated since all household furniture is exempted under this bill. (AS 29.53.025(b))

(c) The reference to "weighted" voting is eliminated. (AS 29.53.025(c))

(d) "Act" has been changed to "chapter". (AS 29.53.025(d))

(e) No substantive change. (AS 29.53.025(e))

(f) Minor rewording. (AS 29.53.025(f))

(g) No change. (AS 29.53.025(g))

Sec. 29.45.060. No substantive change. (AS 29.53.035)

Sec. 29.45.070. No substantive change. (AS 29.53.040)

Sec. 29.45.080. No substantive change. (AS 29.53.045)

Sec. 29.45.090. Requires all property upon which a tax is levied to be taxed at the same rate during the year. Reorganized and slightly reworded for clarity. (AS 29.53.050)

Sec. 29.45.100. Statutory references are altered to reflect new numbering. (AS 29.53.055)

Sec. 29.45.103. Minor rewording. (AS 29.53.103)

Sec. 29.45.105. Minor rewording. (AS 29.53.105)

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

Sec. 29.45.120. "Assembly" is replaced by "municipality". (AS 29.53.070)

Sec. 29.45.130. Allows the assessor to seek a court order to compel production of records, as well as to compel entry. (AS 29.53.080)

Sec. 29.45.140. A person who fails to file a tax statement or makes a false tax statement may be punished under a municipal ordinance prescribing a penalty not to exceed a fine of \$1,000 or imprisonment for 90 days. Under existing law, he is guilty of a misdemeanor punishable by a fine of \$500 or by imprisonment for up to 30 days or both. (AS 29.53.090)

Sec. 29.45.150. "Assembly" and "borough" are replaced by "municipality". (AS 29.53.095)

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

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

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

Sec. 29.45.190. No substantive change. (AS 29.53.130)

Sec. 29.45.200. (a) Requires an appointed board to be composed of no less than three persons, and eliminates the requirement that the board consist of the number of members of the assembly above the number required for a quorum. Requires the governing body to establish by ordinance the qualifications for board membership. (AS 29.53.135)

(b) Allows the board to alter an assessment only if an appeal is filed as to that particular lot. (AS 29.53.135)

(c) This subsection is new, allowing an appeal directly to the superior court on the issue of whether property is taxable.

Sec. 29.45.210. Provides that if, upon appeal, a valuation is found to be too low, the board may raise the assessment. An appeal to the superior court shall be tried as an

administrative appeal, while under existing law an appellant may demand a jury trial. (AS 29.53.140)

Sec. 29.45.220. No change. (AS 29.53.150)

Sec. 29.45.230. Reassessment is permitted when property is affected by a disaster declared by the President, or by the governor. Under existing law, this section applies only when property is affected by a disaster declared by the President. (AS 29.53.160)

Sec. 29.45.240. Minor rewording. (AS 29.53.170)

Sec. 29.45.250. Allows a penalty not to exceed 20 percent of the tax due to be added to delinquent taxes and interest at the rate of 15 percent a year to accrue upon unpaid taxes. Under existing law, a penalty not to exceed 10 percent may be added, and interest at the rate of eight percent shall accrue. A penalty not to exceed 20 percent of the tax due may be imposed upon the late return of personal property assessment forms. Under existing law, only 10 percent of the tax due may be imposed. If a taxpayer may pay a tax in two installments, penalty and interest on the unpaid installment accrues from the date the installment becomes due. Under existing law, if the taxpayer does not pay the first half when due, the entire tax becomes delinquent. A penalty of eight percent is added on delinquent taxes until the due date fixed for payment of the second half, and after the due date of the payment of the second half, the penalty may be increased to 10 percent. (AS 29.53.180)

Sec. 29.45.290. No substantive change. (AS 29.53.200)

Sec. 29.45.300. Property taxes, together with penalty and interest are a lien upon the property assessed, while under this section of existing law, only real property taxes are mentioned as a lien upon the property assessed. However, under AS 29.53.220 it is clear that unpaid personal property taxes are also a lien. (AS 29.53.210)

Sec. 29.45.310. If property is sold for more money than needed to satisfy the tax, the municipality is required to remit the excess to the former record owner. A claim for the excess filed after six months is barred. Under existing law, there is no provision for remitting the excess to the former record owner. (AS 29.53.220)

Sec. 29.45.320. Reworded slightly, and the statutory reference is altered to reflect new numbering. (AS 29.53.230)

Sec. 29.45.330. Minor rewording. (AS 29.53.240)

Sec. 29.45.340. "Borough" is altered to "municipality".  
(AS 29.53.250)

Sec. 29.45.350. "Such" is altered to "the". (AS 29.53.260)

Sec. 29.45.360. Minor rewording, and the statutory reference is altered to reflect new numbering. (AS 29.53.270)

Sec. 29.45.370. "Tract" is altered to "lot".  
(AS 29.53.280)

Sec. 29.45.380. Minor rewording. (AS 29.53.290)

Sec. 29.45.390. Minor rewording and reorganization.  
(AS 29.- 53.300)

Sec. 29.45.400. The material currently contained in AS 29.-53.310(b), allowing a person holding a lien against part of real property included in a judgment and decree of foreclosure to redeem only that part, has been eliminated.  
(AS 29.53.310)

Sec. 29.45.410. Receipt of redemption money by the municipality releases the judgment obtained through foreclosure. Under existing law, receipt of redemption by the clerk releases all claims of the municipality to the property.  
(AS 29.53.320)

Sec. 29.45.420. No change. (AS 29.53.330)

Sec. 29.45.430. No substantive change. (AS 29.53.340)

Sec. 29.45.440. Allows the clerk's designee to publish a redemption period expiration notice. (AS 29.53.350)

Sec. 29.45.450. Minor rewording. (AS 29.53.360)

Sec. 29.45.460. Allows the designee of the clerk to send a copy of the published notice, while under existing law, the clerk is required to send the copy. (AS 29.53.370)

Sec. 29.45.470. Minor rewording. (AS 29.53.375)

Sec. 29.45.480. No substantive change. (AS 29.53.380)

Sec. 29.45.490. "City or borough" is changed to "municipality". (AS 29.53.385)

Sec. 29.45.500. New material is added to this section so that if, in the absence of suit, it becomes obvious to the governing body that judgment for recovery of taxes would be obtained, the municipality shall refund the amount of taxes plus interest. The governing body is permitted to correct manifest clerical errors at any time. (AS 29.53.390)

Sec. 29.45.550. Minor rewording. (AS 29.43.020)

Sec. 29.45.560. Statutory references are altered to reflect new numbering. All sections under existing law which apply to taxes levied by a city apply under this bill as well.

Sec. 29.45.250, dealing with rates of penalty and interest; sec. 29.45.460, dealing with disposition and sale of foreclosed property; sec. 29.45.470, dealing with repurchase by record owner; sec. 29.45.490, dealing with payment of taxes upon public utilization; sec. 29.45.500, dealing with refund of taxes have been added as provisions which a city is subject to. (AS 29.53.400)

Sec. 29.45.570. This is new, applying the provisions dealing with property taxes to home rule municipalities as a limitation.

Sec. 29.45.580. Minor rewording. (AS 29.53.405)

Sec. 29.45.590. No substantive change. (AS 29.53.410)

Sec. 29.45.600. This is new material allowing a petition for second class city incorporation to request that a property tax proposal be placed on the same ballot. The petition may request that incorporation be dependent on passage of the property tax. Under existing law, a petition may combine a request for sales and use tax with a request for incorporation, but no provision exists for combining a request for property tax with a request for incorporation.

Sec. 29.45.650. Interest at the rate of 15 percent, rather than eight percent may be charged on delinquent sales and use taxes, and this is made applicable as a home rule limitation. Material in (e) has been added to allow a lien to

be placed on the property to secure the payment of a sales and use tax. (AS 29.53.415)

Sec. 29.45.660. Minor rewording. (AS 29.73.070(b) and (c))

Sec. 29.45.670. The requirement that a sales tax proposition be presented only once a year has been eliminated. Material now in AS 29.53.420(b) is deleted. (AS 29.53.420(a))

Sec. 29.45.700. Allows the borough assembly by ordinance to authorize the city to levy and collect sales and use taxes on sources other than the sources being taxed by the borough. Under existing law, a city within a borough may levy sales and use taxes only upon sources taxed by the borough. The provision that a city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs has been added. (AS 29.53.440, 29.53.450)

Sec. 29.45.710. No substantive change. (AS 29.53.460)

\* Sec. 13. CHAPTER 46. SPECIAL ASSESSMENTS.

Sec. 29.46.010. Minor rewording and the statutory reference is altered to reflect new numbering. (AS 29.63.010)

Sec. 29.46.020. A list of procedures which the governing body may prescribe includes procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments, and financing improvements. Under existing law, the governing body is authorized to prescribe the complete special assessment procedure for local improvements. Statutory references are altered to reflect new numbering. (AS 29.63.015)

Sec. 29.46.030. The heading is altered from "DECISION AND NOTICE" to "CREATION OF DISTRICT". Minor rewording. (AS 29.63.020)

Sec. 29.46.040. Minor rewording. (AS 29.63.025)

Sec. 29.46.050. Objections may be filed any time within 60 days after publication of notice. Under existing law, objections to an improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the governing body. Minor rewording. (AS 29.63.030)

Sec. 29.46.060. Minor rewording for clarity.  
(AS 29.63.040)

Sec. 29.46.070. Requires a new hearing if the assessment is increased as a result of correcting errors and inequalities in the assessment roll. Objections to the increased assessment are limited to record owners of property on which the assessment was increased. Under existing law, there is no provision for an additional hearing if an assessment is increased as a result of correcting errors. (AS 29.63.050)

Sec. 29.46.080. Minor rewording for clarity, and statutory references are altered to reflect new numbering.  
(AS 29.63.060)

Sec. 29.46.090. Slightly reorganized, and statutory references are altered to reflect new numbering. The section is applicable as a home rule limitation, and is a limitation now under AS 29.13.100(36). (AS 29.63.065)

Sec. 29.46.100. Minor reorganization and rewording.  
(AS 29.63.070)

Sec. 29.46.110. (a) This is new material itemizing the costs which may be included in a special assessment.

(b) The total amount of the assessment roll may not exceed actual costs, but actual costs may include reasonable estimates of the costs incurred in connection with issuance of bonds. (AS 29.63.040(a))

Sec. 29.46.120. Minor rewording and reorganization.  
(AS 29.63.080)

Sec. 29.46.130. This is new material allowing the governing body to issue notes to secure payment of the costs of a local improvement project. The notes are payable out of special assessments for the improvement and the notes are claims against the assessments.

Sec. 29.46.140. Minor rewording. The last line of AS 29.63.085(c), providing that interest on the guarantee funds are a cost of the improvement district, is eliminated.  
(AS 29.63.085)

\* Sec. 14. CHAPTER 47. MUNICIPAL DEBT.

- Sec. 29.47.010. Minor rewording. (AS 29.58.010)
- Sec. 29.47.020. Minor rewording. (AS 29.58.020)
- Sec. 29.47.030. Minor rewording. (AS 29.58.040)
- Sec. 29.47.040. Minor rewording. (AS 29.58.050)
- Sec. 29.47.080. Minor rewording. (AS 29.58.070)
- Sec. 29.47.090. "Assembly or council" is replaced with "governing body". (AS 29.58.080)
- Sec. 29.47.100. "Assembly or council" is replaced by "governing body".
- Sec. 29.47.110. No substantive change. (AS 29.58.100)
- Sec. 29.47.120. Minor rewording. (AS 29.58.110)
- Sec. 29.47.130. Minor rewording. (AS 29.58.120)
- Sec. 29.47.140. No change. (AS 29.58.130)
- Sec. 29.47.180. Minor rewording. (AS 29.58.150)
- Sec. 29.47.190. Minor rewording. The reference to a charter is eliminated since this section does not apply as a home rule limitation. (AS 29.58.160)
- Sec. 29.47.200. Minor rewording. The last sentence in (b) is added since this subsection applies to home rule municipalities as a limitation. It is currently a limitation under AS 29.13.100(24). (AS 29.58.180)
- Sec. 29.47.240. Rewritten for clarity. (AS 29.58.200)
- Sec. 29.47.250. Minor rewording. (AS 29.58.205)
- Sec. 29.47.260. This is a new section excluding revenue bonds from the application of the prohibition against a political subdivision of the state making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation.
- Sec. 29.47.300. Minor rewording. (AS 29.58.240)

Sec. 29.47.310. No substantive change. (AS 29.58.250)

Sec. 29.47.320. "Assembly or council" is replaced by "governing body". (AS 29.58.260)

Sec. 29.47.330. The statutory reference is altered to reflect new numbering and the fact that sections dealing with payment on bonds are combined into one section. (AS 29.58.270)

Sec. 29.47.340. The requirement that refunding bonds be exchanged at par for bonds being refunded is eliminated, so that refunding bonds may be exchanged at the discretion of the governing body. (AS 29.58.280)

Sec. 29.47.390. This contains new material allowing the issuance of revenue bonds to finance any project and to be secured and payable from any source except revenues at the municipality. The city or borough is not obligated to make payments on the bonds from any other sources. (AS 29.58.200(c))

Sec. 29.47.400. Bonds and notes may be sold in the manner and at the price determined by the municipality. Under existing law, no bonds may be sold at less than par value. (AS 29.58.060, 29.58.140, 29.58.300)

Sec. 29.47.410. Minor rewording. (AS 29.58.170, 29.58.210)

Sec. 29.47.420. Allows the interest rate payable on a bond or note to exceed the usury rate. Under existing law, no bond or note may bear an interest which exceeds the contract usury rate. (AS 29.58.310)

Sec. 29.47.430. No substantive change. (AS 29.58.320)

Sec. 29.47.440. Rewritten for clarity. The statutory reference is altered to reflect new numbering. (AS 29.58.340)

Sec. 29.47.450. This is new material providing that the indebtedness of a service area will remain a debt even though a court subsequently determines that the service area was not validly formed under law.

\* Sec. 15. CHAPTER 55. MUNICIPAL PROGRAMS.

Sec. 29.55.010. "General or home rule" is eliminated since "municipality" includes by definition both a general law and a home rule municipality. (AS 29.48.108)

Sec. 29.55.020. The statutory reference to the preceding section is eliminated as unnecessary. (AS 29.48.110)

\* Sec. 16. CHAPTER 60. STATE PROGRAMS.

Sec. 29.60.010. "Local government services" is replaced by "municipal services". (AS 29.88.010)

Sec. 29.60.020. Material in AS 29.88.015(b) is deleted, which included within the population determination the population of any military reservation that is part of the taxing unit. Since municipal tax resource equalization is organized as an article, rather than a chapter, the statutory reference is added. (AS 29.88.015)

Sec. 29.60.030. Statutory references are added since this material is no longer located in a separate chapter. (AS 29.88.020)

Sec. 29.60.040. Statutory references are added since this material no longer appears as a separate chapter. (AS 29.88.025)

Sec. 29.60.050. Subsection (a), dealing with limitation on use of payments, is a home rule limitation. Under existing law all of the tax equalization program is a home rule limitation under AS 29.13.100(46). "Assembly or council" is replaced by "governing body". (AS 29.88.030)

Sec. 29.60.060. Statutory references are added, since this material is no longer contained in a separate chapter. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.035)

Sec. 29.60.070. Statutory references are added, since this material is no longer contained in a separate chapter. Statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.040)

Sec. 29.60.080. Definitions of "department" and "municipality" are eliminated since these are now defined with respect to the entire title. (AS 29.88.045)

Sec. 29.60.100. Statutory references are altered to reflect new numbering. Provision for revenue sharing payable to a "Native village government" is altered to "an unincorporated community". (AS 29.89.010)

Sec. 29.60.110. "Local government" is replaced by "municipality". (AS 29.89.020)

Sec. 29.60.120. Subsections (a) and (c) dealing with distribution and use of money, are home rule limitations. Under existing laws all of the program of aid for miscellaneous services is a limitation under AS 29.13.100(47). A health facility must be licensed or certified by the state or approved under regulations. It specifically includes certain domestic violence or sexual assault shelters and alcohol or drug abuse facilities. (AS 29.89.030, 29.89.100(2) and (3))

Sec. 29.60.130. "Borough or city" is replaced by "municipality". (AS 29.89.040)

Sec. 29.60.140. Provides for aid to unincorporated communities rather than to Native village governments. The Department of Community and Regional Affairs shall pay the money to the entity in an unincorporated community most qualified to receive it. No money may be paid to a Native village council unless it waives immunity from suit. If there is no entity in an unincorporated community willing to receive the money, the community receives no entitlement. (AS 29.89.050)

Sec. 29.60.150. The last portion of the section listing possible sources of population data is eliminated. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.060)

Sec. 29.60.160. Statutory references are altered to reflect new numbering. Authorizes area cost-of-living differentials to be reflected in payments to volunteer fire departments. (AS 29.89.070)

Sec. 29.60.170. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.89.080)

Sec. 29.60.180. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.090)

Sec. 29.60.280. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.010)

Sec. 29.60.290. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.020)

Sec. 29.60.300. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.030)

Sec. 29.60.350. Administration of the municipal assistance fund is transferred from the Department of Revenue to the Department of Community and Regional Affairs. (AS 43.20.016(a))

Sec. 29.60.360. No substantive change. (AS 43.20.016(b))

Sec. 29.60.370. No substantive change. (AS 43.20.016(c) and (d))

Sec. 29.60.400. Reorganized and reworded. (AS 29.89.110(a), (b), (h)(2))

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

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

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

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

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

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

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

Sec. 29.65.030. (c) is added to indicate that this is a continuation of former law and does not grant additional entitlements. (AS 29.18.203)

Sec. 29.65.040. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.18.204)

Sec. 29.65.050. The statutory references to repealed sections are deleted as unnecessary in (a). The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.205)

Sec. 29.65.060. Statutory references are altered to reflect new numbering. (AS 29.18.206)

Sec. 29.65.070. No substantive change. (AS 29.18.207)

Sec. 29.65.080. Reworded for clarity. The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.208)

Sec. 29.65.090. "Any" is changed to "a". (AS 29.18.209)

Sec. 29.65.100. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.210)

Sec. 29.65.110. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.211)

Sec. 29.65.120. Since this material is now organized in a separate chapter, the statutory reference to the sections dealing with general grant land is eliminated. (AS 29.18.212)

Sec. 29.65.130. Since this material is now organized in a separate chapter, the statutory reference is eliminated. The definition of "municipality" is eliminated since that term is now defined for the entire title. (AS 29.18.213)

Sec. 29.65.140. This is a new section indicating that the chapter dealing with general grant land applies to home rule municipalities as well as to general law municipalities.

This material is not a specific home rule limitation under existing law.

\* Sec. 18. CHAPTER 71. GENERAL PROVISIONS.

Sec. 29.71.010. No substantive change. (AS 29.73.030)

Sec. 29.71.020. This is a new section providing that dedication of rights of way or other areas for public use does not require the municipality to maintain, improve, or provide for municipal services in the area dedicated and does not impose any liability on the municipality for the condition of the area dedicated. The section is applicable to home rule municipalities.

Sec. 29.71.030. No substantive change. (AS 29.73.040)

Sec. 29.71.800. The following definitions are added or changed from existing law:

(1) "areawide" is defined to include cities in the borough. (AS 29.78.010(18))

(2) this is added;

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

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

(5) this is added;

(7) this is added;

(8) this is added;

(9) "election" includes both regular and special municipal elections, but does not include a state election; (AS 29.78.010(7))

(10) this is added to refer to either a borough or city legislative entity;

(13) "municipality" includes a home rule or general law borough, city, or unified municipality, while the

existing definition includes only general law municipal corporations; (AS 29.78.010(8))

(14) "nonareawide" includes the area of a borough outside cities in the borough, while under existing law "nonareawide power" is defined; (AS 29.78.010(19))

(15) "owner" or "record owner" means the owner of record shown in the records of the district recorder; (AS 29.78.010(9))

(20) minor rewording; (AS 29.78.010(14))

(21) this has been added;

(23) subparagraph (A) has been reworded and (B) is new; (AS 29.78.010(16))

(24) this has been added; and

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

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

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

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

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

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

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

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

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

- \* Sec. 26. Reworded to delete incorrect statutory references.
- \* Sec. 27. Reorganized. Statutory references are altered to reflect new numbering.
- \* Sec. 28. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 29. The statutory references are altered to reflect new numbering.
- \* Sec. 30. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 31. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 32. The statutory references are altered to reflect new numbering.
- \* Sec. 33. The statutory references are altered to reflect new numbering.
- \* Sec. 34. The statutory references are altered to reflect new numbering.
- \* Sec. 35. The statutory references are altered to reflect new numbering.
- \* Sec. 36. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 37. The statutory references are altered to reflect new numbering.
- \* Sec. 38. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 39. The statutory references are altered to reflect new numbering.
- \* Sec. 40. Minor rewording. The statutory references are altered to reflect new numbering.
- \* Sec. 41. Minor rewording for consistency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* Sec. 71. Statutory reference is altered.

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

\* Sec. 73. Statutory references are altered.

\* Sec. 74. Adds new sections dealing with borough feasibility studies. Authorizes the commissioner of community and regional affairs to contract for a study requested by a person residing in the area to be studied. Sets out requirements for the contract and what a study must include.

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

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

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

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

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

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

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

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

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

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

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

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

\* Sec. 87. All of Title 29 is repealed except for AS 29.03.010 and AS 29.03.020. Additional provisions are repealed to reconcile this bill with other titles.

\* Sec. 88. A right or liability of a municipality in existence on the effective date of this Act is not affected by this Act. Ordinances and regulations in effect on the effective date of this Act remain in effect unless they conflict with a provision of this Act. If an ordinance or regulation conflicts, it remains in effect for 180 days. The terms of elected or appointed municipal officials are not affected by the Act and their terms expire as they would have before the effective date of this Act.

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

In addition to the material already noted as having been deleted from this bill, the following sections have been eliminated entirely:

- AS 29.18.202 (determination of entitlement for cities);
- AS 29.18.220 - 29.18.460 (development cities);
- AS 29.18.510 - 29.18.610 (Capital City Incorporation Act);
- AS 29.23.395 - 29.23.401 (involvement of young people in local government);
- AS 29.23.470 (appointment of temporary or new manager);
- AS 29.28.220 (election procedure);
- AS 29.33.120 (adjustment procedure);
- AS 29.43.100 - 29.43.110 (curfews)
- AS 29.45.480 (proceeds of tax sale);
- AS 29.48.070 (hearing for regulation of utilities rates);
- AS 29.48.080 (right to participate and compel testimony);
- AS 29.48.090 (further proceedings);
- AS 29.48.100 (application);
- AS 29.48.250 (centralized purchasing);
- AS 29.53.030 (mining claims);
- AS 29.58.220 (payment);
- AS 29.58.315 (bond attorneys, bond and financial consultants);
- AS 29.58.345 (bonded indebtedness for school construction);
- AS 29.58.350 (bond guarantee fund).

TBC:ojb  
AS29/004



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 30, 1985

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

It is not the intent of the Legislature through the passage of HB72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25.540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

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

Senate Judiciary Committee

  
Pat Rodey, Chairman

# Alaska State Legislature

## House of Representatives

### Committee on Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4833



LETTER OF INTENT  
to  
CSHB 72 (C&RA)

It is not the intent of the House Community and Regional Affairs Committee in adopting AS 29.53.045 as the renumbered section 29.45.080 in CSHB 72 (C&RA) to alter the substance or effect of that provision.

Peter Goll  
Chairman

*Peter Goll*  
\_\_\_\_\_  
*ROBERT J. GEDD*  
\_\_\_\_\_  
*Wesley H. ...*  
\_\_\_\_\_  
*John ...*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Adopted by House #116/85*

#2

A M E N D M E N T

Offered in the Senate Finance Committee

TO: Senate CS for CS for H.B. 72 (Judiciary)

Page 189, line 6:

\*Sec. 19. AS 04.21.010(c) is amended:

A municipality may not impose taxes on alcoholic beverages except (1) property taxes on alcoholic beverage inventories and (2) sales taxes on alcoholic beverage sales.[] if levied on other property or sales within the municipality.

\* Renumber remaining sections accordingly.

CS COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL  
SS NO. 239 amended was read the third time.

SB  
239  
am

The question being: "Shall COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) pass the Senate?" The roll was taken with the following result:

CS SS SB 239 AM 3RD

Yeas:	18	Bennett, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Hohman, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Sumner, Tillion, Ziegler
Nays:	1	Bradley
Excused:	0	
Absent:	1	Sackett

and so, COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clauses. Without objection, it was so ordered.

#### UNFINISHED BUSINESS

SCS The President stated that the Free Conference Committee on SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR CS HOUSE BILL NO. 91 (making appropriations to the Departments of Law, Health and Social Services, Community and Regional Affairs, and the office of the ombudsman) and COMMITTEE SB 91 SUBSTITUTE FOR HOUSE BILL NO. 91 amended (making a supplemental appropriation to the Department of Law) is discharged. (See pages 705 and 706.)

The Secretary was requested to notify the House.

Senator Ray gave notice of reconsideration on COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) and moved and asked unanimous consent that it be taken up at this time. Senator Bradley objected, then withdrew his objection. There being no further objection, it was so ordered.

CS  
SS  
SE  
239  
am

#### SENATE BILLS IN THIRD READING

COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) was before the Senate at this time on reconsideration.

Senator Ray moved that the Senate adopt the Judiciary Committee's letter of intent (Senate Supplement No. 23) as a Senate letter of intent on COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended.

The question being: "Shall the Senate adopt the Judiciary Committee's letter of intent as it appears in Senate Supplement No. 23 as a Senate Letter of Intent?" The roll was taken with the following result:

CS SS SB 239 AM RECON MOTION

Yeas:	19	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Hohman, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Sumner, Tillion, Ziegler
Nays:	0	
Excused:	0	
Absent:	1	Sackett

and so, the Senate adopted the letter of intent.

The question to be reconsidered is: "Shall COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 239 amended (relating to alcoholic beverages) pass the Senate?" The roll was taken with the following result:

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 28, 1985

SUBJECT:           Limitation on the authority of municipalities  
                  to tax alcoholic beverages  
                  (CSSB 142 (C&RA))

TO:                 Senator Frank Ferguson

FROM:              Tamara Brandt Cook  
                  Deputy Director  
                  Division of Legal Services

Here is the amendment to the municipal revision code bill that you requested repealing AS 04.21.010(c). You have asked that several items be looked into in connection with this amendment.

1. Supply a brief chronology on how the subsection ended up in the final bill which rewrote Title 4.

The bill rewriting the alcoholic beverages title was introduced as SB 239 sponsored by the Title 4 Code Revision Committee. That version did not contain the material on municipal taxation of alcoholic beverages that is now AS 04.21.010(c). A sponsor substitute, however, did include that material in a slightly expanded form in what was Section 04.21.010(b) of that bill:

A municipality may impose no taxes on alcoholic beverages except (1) property taxes on alcoholic beverage inventories and (2) sales taxed on alcoholic beverage sales if levied on other property or sales within the municipality. (Underlined portion does not appear in existing law.)

The language in the sponsor substitute was not changed in CS SSSB 239(Jud), nor was it changed on the floor of the Senate which passed CS SSSB 239(Jud)am. However, the first committee substitute that came out of the House, HCS CS SSSB 239(Jud), changed the language to the form it is now in and it stayed in that form through subsequent versions on the

Sackett Am

#4

AMENDMENT

TO: SCS CSHB 72 (Jud)

BY: Sackett

Page 76, Delete Line 29

Page 77, Delete Lines 1 - 19

Sackett: y, r s; v Ob

1 President or governor to be a disaster area may participate in and  
2 provide for housing, urban renewal, and redevelopment in the same  
3 manner as a home rule city. The exercise of these powers by a borough  
4 shall be on a nonareawide basis, except a borough may exercise the  
5 powers transferred to it by a city as provided by AS 29.35.310.

6 (b) Powers granted by this section must be initiated within a  
7 period of not more than five years after the date of declaration of a  
8 natural disaster by the President or governor, but these powers may be  
9 extended for an additional period of not more than three years.

10 Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES. (a) A muni-  
11 cipality may by ordinance

12 (1) provide for the establishment, maintenance, and opera-  
13 tion of a system of garbage and solid waste collection and disposal  
14 for the entire municipality, or for districts or portions of it;

15 (2) require all persons in the municipality or district to  
16 use the system and to dispose of their garbage and solid waste as  
17 provided in the ordinance;

18 (3) award contracts for collection and disposal, or provide  
19 for the collection and disposal of garbage and solid waste by muni-  
20 cipal officials and employees;

21 (4) pay for garbage and solid waste collection and disposal  
22 from available money;

23 (5) require property owners or occupants of premises to use  
24 the garbage and solid waste collection and disposal system provided by  
25 the municipality;

26 (6) fix charges against the property owners or occupants of  
27 premises for the collection and disposal; and

28 (7) provide penalties for violations of the ordinances.

29 (b) The governing body of a municipality may not prohibit a

1 person holding a valid certificate from the Alaska Public Utilities  
2 Commission from continuing to collect and dispose of garbage, refuse,  
3 trash, waste material, or provide other related services in an area in  
4 the municipality if the certificate authorizes the collection and  
5 disposal of garbage, refuse, trash, or other waste material and pro-  
6 viding of other services in the area, and the certificate was orig-  
7 inally issued before the municipality provided similar services. A  
8 municipality may not provide for a garbage, refuse, trash, or other  
9 waste material collection and disposal service in an area to the  
10 extent it lies in an area granted to a garbage, refuse, trash, or  
11 other waste material carrier by a certificate issued by the Alaska  
12 Public Utilities Commission to the carrier until it has purchased the  
13 certificate, equipment and facilities of the carrier, or that portion  
14 of the certificate that would be affected, at fair market value. A  
15 municipality may exercise the right of eminent domain to acquire the  
16 certificate, equipment and facilities of the carrier, or that portion  
17 of the certificate that would be affected.

18 (c) This section applies to home rule and general law municipal-  
19 ities.

20 Sec. 29.35.060. FRANCHISES AND PERMITS. (a) The assembly  
21 acting for the area outside all cities in the borough and the council  
22 acting for the area in a city may grant franchises, including exclu-  
23 sive franchise privileges, to a person, corporation, organization, or  
24 utility not certificated by the Alaska Public Utilities Commission and  
25 may permit the use of streets and other public places by the franchise  
26 holder under regulations prescribed by ordinance.

27 (b) Unless the grant is made on a competitive basis, the grant  
28 of an exclusive right to use a public street or right-of-way for more  
29 than five years to a utility or a transportation system not

COMMITTEE REPORT  
SENATE

FURTHER: JUDICIARY  
FINANCE

Date April 18, 1985

Mr. President

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

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

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

MEMBERS SIGNING  
DO PASS

[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman

[Signature]  
Chairman recommendation



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:  
Senator Ferguson, Vice Chairman  
Senator Coghill  
Senator Sturgulewski  
Senator V. Fischer

Pouch V  
Juneau, Alaska 99811

April 18, 1985

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

It is not the intent of the Legislature through the passage of HB 72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25.540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

A handwritten signature in cursive script, reading "Edna DeVries".

-----  
Senator Edna DeVries, Chairman

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSHB 72(C&RA) am

Affairs Committee

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

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

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

Renumber following bill sections accordingly.

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

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

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

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

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

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

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

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

Delete all material and reletter following subsections accordingly.

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

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

Page 29, lines 20 and 21:

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

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

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

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

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

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

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

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

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

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

Delete all material and reletter the following subsections accordingly.

AMENDMENT (Coghill)

p 164

6

SACKETT - HOLD  
Withdrawn

Substitute

Sec. 29.89.050. State aid to Native Village governments

for Sec 29.60.140 STATE AID TO UNINCORPORATED COMM.

Testimony: Coghill  
Goll  
Smith

ated irrevocably to a public purpose. (§ 3 ch 155 SLA 1980; am §§ 1, 2 ch 103 SLA 1981)

**Effect of amendments.** — The 1981 amendment substituted "\$250,000" for "\$75,000" preceding "a hospital" and substituted "\$50,000" for "\$25,000" preceding "a hospital" in paragraph (1) of subsection

(a). The amendment also substituted "\$2,000" for "\$1,000" preceding "per bed" and substituted "\$8,000" for "\$4,000" preceding "per health facility" in paragraph (3) of subsection (a).

#### NOTES TO DECISIONS

For case interpreting the former revenue sharing scheme for hospitals and health care facilities, see Municipality

of Anchorage v. Sisters of Providence in Wash., Inc., Sup. Ct. Op. No. 2343 (File Nos. 5017, 5018, 5329), 628 P.2d 22 (1981).

**Sec. 29.89.040. State aid to volunteer fire departments in the unorganized borough.** (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or city a sum for protection purposes equal to \$10 per capita for the population served by the department, as determined by the state fire marshal.

(b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized borough or city, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 3 ch 155 SLA 1980)

**Sec. 29.89.050. State aid to Native village governments.** The state shall pay \$25,000 to a Native village government for a village which is not incorporated as a city under this title. In this section, "Native village government" means

(1) a local governing body organized by authority of the Act of Congress of 25 U.S.C. 476 (the Act of Congress of June 18, 1934)

(2) a traditional village council or, if there is no traditional village council, the paramount chief or other governing body of a Native village which meets the requirements of 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act). (§ 3 ch 155 SLA 1980)

**Sec. 29.89.060. Population determination.** For purposes of AS 29.89.010 — 29.89.100, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls. (§ 3 ch 155 SLA 1980)

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

April 15, 1981

Hon. Ramona L. Barnes  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: Grants to unincorporated  
communities

Dear Representative Barnes:

This responds to your request for advice on the constitutionality of limiting revenue sharing for unincorporated communities to those organized under the Indian Reorganization Act of 1934 (IRA), 25 U.S.C.A. § 476 (1963), or eligible as a Native Village under the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C.A. § 1611.

We believe that the limitation may well be unconstitutional under the equal protection clause of the state constitution. Alaska Const., art. I, § 1.

According to the Department of Community and Regional Affairs, there are 30 unincorporated communities outside of organized boroughs, with a population of 3,867 people, which are not IRA or ANCSA villages. These include, for example, Tok, Big Delta, Chicken, Dunbar, Elfin Cove, Evansville, Glenallen, Gustavus, Healy, Hyder, McKinley Park, Point Baker, Thorne Bay, Two Rivers, and Whale Pass.

To meet equal protection requirements, the basis for distinguishing between unincorporated communities must bear a reasonable relationship to a legitimate governmental goal. The goal is to provide public benefits in the form of facilities and services made available to the public at large on a nondiscriminatory basis. That can be done by any identifiable, responsible local group which, given the grant, is ready, willing, and able to do so. This is precisely how the program for rural development assistance works under AS 44.-47.130. Accordingly, limiting grantees to tribal councils appears to have no reasonable basis, and therefore, may violate the equal protection clause. It is this limitation

Honorable Ramona L. Barnes

- 2 -

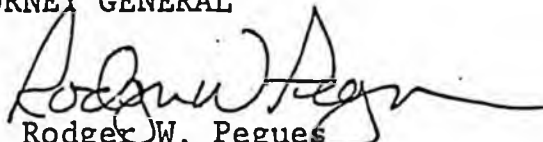
April 15, 1981

which runs afoul of the constitution, not the categorical grants themselves.

The proper corrective action is to amend the revenue sharing legislation to enlarge the class of beneficiaries.

Sincerely yours,

WILSON L. CONDON  
ATTORNEY GENERAL

By:   
Rodger W. Pegues  
Assistant Attorney General

RWP/pjg

# MEMORANDUM

State of Alaska

TO: Hon. Lee McAnerney, Commissioner  
Dept of Community & Regional Affairs

DATE: April 27, 1981

FILE NO: J-66-335-81

ATTN: Palmer McCarter, Director  
Div. of Local Gov't Asst

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: State revenue sharing  
with IRA councils and  
traditional councils,  
chiefs, or other gov-  
erning bodies

By: Rodger W. Pegues  
Assistant Attorney General

You have asked for additional advice on this subject.

Under AS 29.89.050, the state pays \$25,000 annually to a "Native village government for a village which is not incorporated as a city . . . ." The term is defined as a local governing body organized under section 16 of the Indian Reorganization Act, 25 U.S.C.A. 476 (1963) which was applied to Alaska by the Act of May 1, 1936, 25 U.S.C.A. § 473a (1963), \*/ or as a traditional village council, paramount chief, or other governing body of a village.

This statute creates serious constitutional problems. If the money is not expended by the recipient to provide public services in a racially non-discriminatory manner, the public purpose clause \*\*/ and the equal protection clause \*\*\*/ of the Alaska Constitution will have been violated. Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963). The test, however, is not the racial or religious character of the recipient but the character of the use to which the money will be put. Id. And the courts will look at the entire factual and governmental context on a case-by case basis to determine whether the expenditure serves a public purpose. Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). Accordingly, the constitutional provisions which require a public purpose and equal protection will not be offended so long as the services

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\*/ There is a question whether any section 16 tribal organization, other than the Metlakatla Indian Community Annette Islands Reserve, Alaska, still exercises governmental powers after the enactment of the Alaska Native Claims Settlement Act.

\*\*/ Alaska Const., art. IX, § 6. "No tax shall be levied, or appropriation of public money made, or public property transferred . . . except for a public purpose."

\*\*\*/ Alaska Const., art. I, § 1; U.S. Const., Amend. XIV, § 1.

provided by a village council are furnished on a non-discriminatory basis.

A much less easily resolved problem lies in another provision of the Alaska Constitution, article X, section 2:

All local government power shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

This limitation of "local government power" to boroughs and cities is preceded by a purpose clause which states:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

The record of the debates at the Constitutional Convention makes it clear beyond reasonable doubt that this three-fold statement of purpose and construction precisely and concisely sums up the essence of the article on local government and the intent of its framers. The framers perceived three evils hobbling local government in Alaska and elsewhere: One, there were a multiplicity of overlapping, special (often single) purpose districts, each little known to the average voter and each monomaniacally pursuing its own goals in disregard and often in conflict with other special purpose districts occupying the same, or part of the same, area. Two, many of these districts operated on revenues from special purpose projects, for example sewage disposal districts. Others levied taxes. Their single purpose orientation, lack of centralized control and responsibility, distance from any meaningful relationship to the voters, and lack of any need to compete for a share of an integrated budget made tax levies and expenditures excessive and irrational. Three, the courts had hobbled local governments with general rules for construing their powers under which local governments could not respond to pressing needs because they could not find some express provision of a statute or charter which gave them the power to act on the subject. The framers crafted article X to cure or remove all three evils. Fairview Pub. Util. Dist. No. 1 v. City of Anchorage, 368 P.2d 540, 543-545 (Alaska 1962).

The provisions of article X carry out the framers

April 27, 1981

purposes. They prescribe that a "liberal construction shall be given to the powers of local government units." Alaska Const., art. I, § 1. They limit local government powers to cities and boroughs. Id., § 2. They allow the legislature to delegate taxing power to boroughs and cities only. Id. They prohibit new special districts ("service areas") from being established "if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city." Id., § 5. The adoption of home rule charters is placed in the hands of local voters, id., § 9, and home rule local governments have all powers not prohibited by law or charter. Id., § 11. Finally, to make boundary changes, including mergers, as easy as possible, a state commission is empowered to change them, subject only to a two-house veto by the legislature. Id., § 12. In other words, if the constitution is followed, none of the three evils the framers sought to cure and avoid can exist in Alaska.

The use of traditional village councils or IRA councils to provide local government services is at odds with the constitution's provisions on local government. The public services they would perform are those which local governments perform. The Alaska Constitution limits the exercise of those powers by political subdivisions of the state to boroughs and cities. The tribal councils are neither. If they are duly organized under section 16 of the Act, 25 U.S.C.A. 476 (1963), they are tribal governments with sovereign immunity. Parker Drilling Co. v. Metlakatla Indian Community, 451 F.Supp. 1127 (D. Alaska 1978); Atkinson v. Haldane, 569 P.2d 151 (Alaska 1977). Financing a broad range of tribal government activities on the part of the councils is not for a public purpose of the state. Financing a broad range of non-tribal, local government activities through the councils would effectively raise them to the status of local governments. That conflicts with the constitutional mandate that the legislature may only use cities or boroughs to provide local government, and it indubitably removes any incentive -- or even any rational basis -- for a village to incorporate as a city. It would also have the practical effect of creating or sanctioning a racially exclusive de facto local government under color of state law, which is the reason that tribal councils cannot be designated by the state to be cities or local governments. Under the Equal Protection Clause, the state cannot set up racially exclusive political subdivisions.

This is not to say that the state cannot contract with a racially (or religiously) exclusive group to provide

April 27, 1981

public services or manage a public facility on a non-discriminatory basis for all the residents of a community. On a limited basis, therefore, grants can be made to IRA councils in their capacity as business corporations to provide some public services. The state constitution, however, bars the de facto establishment under state law of these councils as the local governments of Alaska's villages.

There is still another problem. In making monetary distribution to Native village governments but not to other potential applicants for grants in those villages and in other unincorporated communities, the statute may create equal protection problems by discriminating against the latter without a reasonable basis, if these are responsible parties which are equally capable of providing community services. This problem can be solved by amending the law to open the class of beneficiaries to other entities and other communities and including them, on application, in the distribution. We understand that there are 30 of these communities.

Turning to your specific questions, first to be eligible to participate in the revenue sharing program, the community must meet the statutory requirements, make application, and undertake to expend the money for public purposes on a non-discriminatory basis. Because the contract cannot be enforced in court unless Congress waives the tribal government's sovereign immunity, you should use forfeiture of the grantee's right to a grant in the following fiscal year as an enforcement mechanism.

Second, state money cannot be expended for the costs of general administration because the village councils and other groups are not public agencies of the state or its political subdivisions. They are, on the one hand, federally recognized and organized tribal entities, and on the other, private associations or corporations. With respect to the former, depending on whether they are organized under section 16, section 17, or both of the Indian Reorganization Act, they are governmental, corporate, or both. In their governmental role, they are tribal. In their corporate role, they are private. All of them can provide public services on a non-discriminatory basis, and to the extent that they do so, a proportional share of their general administrative costs can be paid from state money.

Third, we know of no way to insure that the money will be spent for the good of the whole community. Obviously, each recipient must be required to promise that the money will

Palmer McCarter, Director  
C&RA - Local Government Asst

- 5 -

April 27, 1981

be spent for the good of the entire community and to specify what public services it will provide on a racially non-discriminatory basis. Enforcement will be difficult against a tribal council acting in its governmental capacity under section 16 of the IRA. For that reason, if a section 17 corporation exists, the grant-contract should state that it is with the village council acting in its capacity as a business corporation.

RWP/pjg

cc: Hon. William R. Nix  
Commissioner  
Department of Public Safety

Daniel W. Hickey  
Chief Prosecutor  
Juneau AGO - Criminal Section

# MEMORANDUM

# State of Alaska

TO: Hon. Lee McAnerney, Commissioner DATE: September 2, 1981  
Dept of Community & Regional Affairs

FILE NO: J-66-829-81

ATTN: Palmer McCarter, Director

Div. of Local Gov't Asst TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: State financial aid  
to benefit unincor-  
porated communities

By:

*Laura L. Davis*  
Laura L. Davis

Assistant Attorney General

By your memoranda of May 17 and June 12, 1981, you have asked us to address a number of questions related to state financial assistance to benefit unincorporated communities. First, as to your authority to distribute money to unincorporated villages under AS 29.89.050, we believe that statute to be unconstitutional if read literally to restrict aid to Native villages. We also believe that the statute may be construed in a constitutional manner by severing the words "Native" and "government" and the definition of "Native village government." Second, with regard to state financial aid to unincorporated communities in general, we will discuss the relevant constitutional principles which apply to the questions you have raised.

AS 29.89 provides for annual revenue sharing with municipalities (for roads, AS 29.89.020), operators of health facilities and hospitals (AS 29.89.030), volunteer fire departments in the unorganized borough (AS 29.89.040), and Native village governments (AS 29.89.050). As discussed in our memorandum of April 27, 1981, aid to Native village governments raises serious issues under (1) article IX, section 6 of the Alaska Constitution which prohibits expenditure of public money unless the expenditure is for a public purpose; (2) article I, section 1, which accords equal protection to all persons; and, (3) article X, section 2, which provides for the exercise of local governmental powers only by cities and boroughs which are incorporated under state law.

We stated that the public purpose requirement was satisfied if the money were used for public benefit, and not for the private benefit of a racially exclusive group. We also indicated that a local organization could receive and spend state money for the benefit of a community without becoming a de facto unit of local government. As to equal protection, we stated that the distribution of state money to a racially exclusive organization did not deny equal protection to persons who are not members of the organization, if benefits provided with the funds were made available to the public at large.

September 2, 1981

However, as we noted, the payment of state money under AS 29.89.050 only to those unincorporated communities which are identified as Native villages does exclude from participation a number of similarly situated communities which are not Native villages. The first inquiry necessary to determine if a statute is valid under Alaska's equal protection test is whether the statute has a legitimate purpose. State v. Erickson, 574 P.2d 1 (Alaska 1978).

Of the three possible purposes for AS 29.89.050 which we have identified, the only legitimate one is to provide public services to residents of unincorporated communities. \*/ If the statutory purpose were illegitimate under the Alaska Constitution, the statute would be unenforceable. There is a heavy presumption in favor of the constitutionality of any statute. SUTHERLAND STATUTORY CONSTRUCTION § 45.11.

Assuming that the legislature intended by AS 29.89.-050 to provide public services to the residents of unincorporated

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\*/ A purpose to benefit Native villages solely because of the racial ancestry of their inhabitants would not be legitimate in the absence of a special motivation such as compensation for loss of aboriginal property rights. No such special motivation appears to be present here. A purpose to encourage the Native villages to assume the responsibilities of local governmental units would be in conflict with article X, section 2, of the constitution, and thus will not be inferred, despite the use of the term "Native village government."

We note that the Act which added AS 29.89 stated no purpose for that chapter, but did state a purpose for adding the general revenue sharing chapter, AS 29.88, as follows:

It is the purpose of sec. 2 of this Act to

(1) improve the revenue raising and distribution system for the benefit of residents of home rule and general law municipalities by providing for more equitable allocation of financial resources among municipalities to improve their fiscal capacities; and

(2) assure that no municipality suffers impoverishment of necessary public services, relative to other municipalities, because of the chance location of taxable wealth in the state.

September 2, 1981

rated communities, the means chosen are only loosely suited to that purpose because of the existence in the state of a substantial number of unincorporated communities whose residents would not be benefitted by the literal language of AS 29.89.050. Since the distinction is based upon the racial ancestry of the communities, we might conclude that the statute is unconstitutional despite its legitimate purpose. However, we note that the Alaska Supreme Court has held that a statute which denied equal protection by limiting its application to members of one sex (prohibiting prostitution by females) could be construed as constitutional by severing the offending restrictive language, and thereby expanding application of the statute to all persons. Plas v. State, 598 P.2d 966 (Alaska 1979).

The interpretation of AS 29.89.050 presents an analogous problem. The effect of severing the offending restriction to "Native" village "governments," and deleting the definition of that term, is to expand the group of eligible communities to include all "villages." \*/ Although this interpretation alters the literal wording of the statute significantly and is, therefore, not to be implemented hastily, State v. Campbell, 536 P.2d 105 (Alaska 1975), it does avoid the alternative interpretation that the statute is unconstitutional and void. The law strongly favors the construction of statutes to be consistent with constitutional requirements. State v. Sundberg, 611 P.2d 44 (Alaska 1980); Summers v. Anchorage, 589 P.2d 863 (Alaska 1979). According to Sutherland:

It has even been said that "a strained construction is not only permissible, but desirable if it is the only construction that will save constitutionality."

SUTHERLAND STATUTORY CONSTRUCTION § 45.11 at 34 (footnote omitted). We believe that the interpretation of AS 29.89.050 to authorize grants of state money to all villages is the only interpretation consistent with our constitution.

According to your estimates, the dilution of revenue sharing funds caused by including other unincorporated communities under AS 29.89.050 will not cause significant diminution in the fund allotments. Further, this interpretation

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\*/ A parallel deletion of "Native" and "government" from AS 29.89.010(b) is also necessary.

September 2, 1981

is consistent with the subsequent action of the legislature in providing for grants to all unincorporated communities. 1981 Alaska Sess. L., ch. 60, § 2. We believe that under the circumstances, the Alaska courts would uphold an administrative interpretation of AS 29.89.050 to permit revenue sharing to all villages in the state, regardless of their racial composition or ancestry.

A question arises as to the meaning of "village" under AS 29.89.050, in the absence of the language limiting it to a Native village organized under federal law. Generally, a village is any discrete and identifiable place where a group of people reside in close proximity, intend to remain in the place indefinitely, and carry on ordinary human social and economic activities as a community. Wyandotte Sav. Bank v. Eveland, 78 N.W.2d 612, 617, 347 Mich. 33; Union Sav. Bank of Patchogue v. Saxon, 335 F.2d 718, 721 (D.C. Cir. 1964). Your administrative regulations interpreting and implementing chapter 60, SLA 1981 should provide appropriate guidelines for both that Act and for AS 29.89.050.

Your memorandum of May 17 asked a number of questions regarding your assistance to local governments and to communities in the unorganized borough. Generally, the three constitutional principles discussed above should guide your conduct. You must administer money under your control in order to ensure that it is spent to achieve a public purpose. This requires active supervision of all grants and contracts, especially those transferring money to an organization other than a municipal government. Village and regional Native corporations are not incorporated as cities or boroughs and are not considered to be local governments under state law.

The equal protection provision requires that you administer your programs in order to provide similar treatment for people or organizations which are similarly situated, unless there is a very strong reason for treating them differently. The distinction between a municipality and an unincorporated village is created by the Alaska Constitution. This different treatment of municipalities is justified because of their status and duties as governmental entities. For example, the state may make general revenue sharing grants to municipalities, to be used at the discretion of the municipal government. The public purpose requirement is met by the operation of state law and the Alaska Constitution controlling the activities of municipal governments. The state may not make general revenue sharing grants to non-governmental entities. In administering the grants to villages under AS 29.89 and to unincorporated communities under chapter 60,

Palmer McCarter, Director  
C&RA - Local Gov't Assistance

- 5 -

September 2, 1981

SLA 1981, you must ensure that the money is spent to achieve a public purpose.

The local government article of the Alaska Constitution (article X) provides for the exercise of local government powers by cities and boroughs and for the provision of services by multi-purpose service areas. In administering services in the organized borough, the state may contract with any entity capable of providing the needed service, as long as the contractor is actively supervised by the state, and not permitted to become de facto, a local government.

You are not absolutely prohibited by the constitution from contracting for the delivery of services by profit-making corporations or by Native organizations which may have sovereign status, if the services are necessary and no other capable and responsible contractor is available. However, it would be inconsistent with your duties as an administrator of public funds, to contract with these organizations if another more responsible and capable contractor is available. An entity which may be immune from contract enforcement because of its sovereign status should be considered less responsible to accept a state grant than any corporate entity.

We will defer your request for an authoritative statement of the powers of tribal governments for the time being, and hope that these general guidelines are adequate to resolve your immediate problems.

LLD/pjg

# MEMORANDUM

# State of Alaska

TO: Hon. Lee McAnerney, Commissioner      DATE: November 18, 1981  
Dept of Community & Regional Affairs

FILE NO: J-66-261-82

ATTN: Palmer McCarter, Director

Div. of Local Gov't Asst      TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Revenue sharing  
to unincorporated  
communities

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

This responds to your memorandum of October 1, 1981. It is our opinion that AS 29.89.050 should be interpreted to authorize payments only to those unincorporated communities located outside the boundaries of any municipality, and administered in a manner similar to that provided for aid to unincorporated communities under chapter 60, SLA 1981. Our reasoning follows:

Our memoranda of April 27, 1981 and September 2, 1981 set forth and explain the legal principles which prohibit the recognition of any entity other than an incorporated city, borough, or unified municipality as a unit of local government in Alaska. We advised by those memoranda that general revenue sharing with an unincorporated community would be unconstitutional. In order to avoid the conclusion that AS 29.89.050, "State aid to Native village governments," is unconstitutional and void, we suggested that the legislative intent behind that section was to provide state assistance for public services in unincorporated communities.

Any community located within a municipality is a part of the municipality. Adult members of the community are eligible to vote in municipal elections and the municipality is the unit of local government for that community. There is no need for the state to provide services through another organization where a municipality exists. To do so would contravene the constitutional provision that "all local government powers shall be vested in boroughs and cities." Alaska Const., art X, § 2.

Accordingly, we advise that AS 29.89.050 should be administered not as general revenue sharing, but as aid for specific purposes which are identified in a manner similar to that provided for aid to unincorporated communities in chapter 60, SLA 1981. Payments should be made under AS 29.89.050 only for the benefit of communities located outside any municipality.

We understand that the Senate community and regional

Palmer McCarter, Director  
CRA-Local Government Assistance

November 18, 1981  
Page #2

affairs committee has discussed introducing legislation to amend AS 29.89.050 to provide for aid to unincorporated communities similar to chapter 60, SLA 1981. Such legislation would confirm our interpretation of the legislative intent behind AS 29.89.050 and would avoid the constitutional problems discussed in our earlier memoranda. We hope that this answers your questions.

LLD/pjg

COMMITTEE REPORT

HOUSE

(11)

(3/29/85)

FURTHER:

(Judiciary waived 3/20)

Date: 4-4-85

The Committee on FINANCE has had HB 72

"An Act relating to municipal government; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 72 (CIRN) [X] same title  
[ ] new title  
and recommends do pass w/ amendment

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note 3/19/85  
[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
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[Signature]  
CHAIRMAN

A M E N D M E N T

Offered in the HOUSE

By Rieger

TO: CSHB 72 (C&RA)

Page 10, line 27:

Delete "June 30, 1986" and insert "December 31, 1985"

Page 11, line 2:

Delete "July 1, 1986" and insert "January 1, 1986"

Page 11, line 3:

Delete "June 30, 1986" and insert "December 31, 1985"

Page 11, line 20:

Delete "June 30, 1986" and insert "December 31, 1985"

Page 12, line 21:

Delete "June 30, 1986" and insert "December 31, 1985"

Page 12, line 24:

Delete "June 30, 1986" and insert "December 31, 1985"

Page 105, line 28:

Delete "AS 19.70.081" and insert "AS 18.70.081"

Page 114, line 8:

Before "property" insert "taxable"

Page 114, line 12:

Before "property" insert "taxable"

Delete "under this chapter and"

Page 114, line 18:

Before "property" insert "taxable"

Delete "under this chapter and"

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3/15/85

**REQUEST**

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

**FISCAL DETAIL**

Agency Affected: Community & Regional Affairs  
 Program Category Affected: \_\_\_\_\_  
Community Development  
 ERU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Community Assistance Grants  
 Component: Organizational Grants

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-	400.0	350.0		
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	400.0	350.0		

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**


GENERAL FUND		-0-	400.0	350.0		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	400.0	350.0		

**POSITIONS:**

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

**ANALYSIS:** Attach a separate page if necessary

SEE ATTACHED ANALYSIS

Prepared By: Doug Griffin, Deputy Director   
 Division: Municipal & Regional Assistance

Phone: 465-4750

Date: 3/15/85

Approved by Commissioner:   
 Agency: Community & Regional Affairs

Date: 3/15/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

HB 72

AN ACT RELATING TO MUNICIPAL GOVERNMENT

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

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

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

Program Summary: The only portion of this bill which will create fiscal impact is Sec. 29.05.180-190 which provides additional transitional assistance through increased organizational grants. The Department is also required to provide additional assistance to newly formed cities and boroughs in setting up a sales tax collection system and tax rolls for property taxation. It is difficult to gauge whether this type of assistance will in fact be requested. If it is requested, additional work will be required of the State Assessor and technical assistance sections of the Division of Municipal and Regional Assistance. Given this uncertainty, possible costs for this type of technical assistance are not reflected in this fiscal note.

Computations:

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

Economic Impact: The economic impact on State and local governments will be limited.

Impact on Local Governments: This bill is strongly supported by the Alaska Municipal League and most municipalities of the State. Impacts will generally be positive, particularly for newly incorporated municipalities.

Offered: 3/8/85  
Referred: Judiciary and Finance  
Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 72 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to municipal government; and providing for an effective date."

7

8

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

9

\* Section 1. AS 29.03 is amended by adding a new section to read:

10

Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075,

11

the Department of Natural Resources is the platting authority in the

12

unorganized borough in the area outside all cities.

13

\* Sec. 2. AS 29 is amended by adding a new chapter to read:

14

CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

15

Sec. 29.04.010. HOME RULE. A home rule municipality is a

16

municipal corporation and political subdivision. It is a city or a

17

borough that has adopted a home rule charter, or it is a unified

18

municipality. A home rule municipality has all legislative powers not

19

prohibited by law or charter.

20

Sec. 29.04.020. GENERAL LAW. A general law municipality is a

21

municipal corporation and political subdivision and is an unchartered

22

borough or city. It has legislative powers conferred by law.

23

Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipalities

24

are of five classes:

25

(1) first class boroughs;

26

(2) second class boroughs;

27

(3) third class boroughs;

28

(4) first class cities;

29

(5) second class cities.

1           Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A  
2 second class city may be reclassified as a first class city by holding  
3 an election on the question, if the department determines from the  
4 best figures available that the population of the city has reached 600  
5 permanent residents.

6           (b) An election on the question of reclassification may be ini-  
7 tiated in two ways:

8           (1) a number of voters equal to 15 percent of the number of  
9 votes cast in the city at the preceding regular election may file a  
10 petition with the council; or

11           (2) the council may propose reclassification.

12           (c) The council shall hold at least one public hearing in the  
13 city on the question of reclassification. The council shall then  
14 evaluate the ability of the city to assume first class status and make  
15 its findings public.

16           (d) The council shall, within 30 days after its findings have  
17 been made public, order an election on the question of reclassifica-  
18 tion. The election shall be held at least 30 days after the order and  
19 not later than the next regular election occurring after the 30-day  
20 period. If more than one question is to be voted on at the election,  
21 each shall appear separately on the ballot.

22           (e) The council shall certify the election results to the de-  
23 partment. If the majority of votes cast is favorable, the city shall  
24 be considered reclassified to first class status 30 days after certi-  
25 fication of the election results.

26           Sec. 29.04.050. RECLASSIFICATION OF SECOND CLASS BOROUGHS. A  
27 second class borough may reclassify as a first class borough in the  
28 manner provided by AS 29.35.320 - 29.35.330 for the addition of an  
29 areawide power by a first or second class borough, except the petition

1 or proposal requests reclassification instead of requesting addition  
2 of a power.

3 Sec. 29.04.060. RECLASSIFICATION OF THIRD CLASS BOROUGH. (a)  
4 A third class borough may reclassify as a first or second class bor-  
5 ough in the manner provided by AS 29.35.320 - 29.35.330 for the addi-  
6 tion of an areawide power by a first or second class borough, except  
7 the petition or proposal requests reclassification instead of request-  
8 ing addition of a power. At the time of voting on reclassification of  
9 a third class borough to first or second class status, voters shall  
10 vote also on whether the borough shall, on reclassification, retain a  
11 combined assembly and school board or elect a separate assembly and  
12 board as otherwise provided for first and second class boroughs.

13 (b) If a combined assembly and school board are approved at the  
14 reclassification election, the assembly serving at the time of the  
15 election continues to serve as the assembly and board on voter ap-  
16 proval of reclassification and until terms of assembly members expire  
17 as provided before reclassification.

18 (c) If a separate assembly and school board are approved at the  
19 reclassification election, a school board shall be elected in confor-  
20 mity with AS 14.12.030 - 14.12.100 at the next regular election, if it  
21 occurs within 90 days of the date of the reclassification election, or  
22 otherwise at a special election within 90 days of the date of the  
23 reclassification election. Expiration dates of terms of school board  
24 members elected at a special election must coincide with the date of  
25 the regular election. Until a board is elected and qualified, the  
26 assembly continues to serve as the board.

27 \* Sec. 3. AS 29 is amended by adding a new chapter to read:

28 CHAPTER 05. INCORPORATION.

29 ARTICLE 1. REQUIREMENTS.

1           Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that  
2 meets the following standards may incorporate as a home rule or first  
3 class city:

4           (1) the community has 600 or more permanent residents;

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

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

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

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

17           (b) A community that meets all the standards under (a) of this  
18 section except (a)(1) may incorporate as a second class city.

19           Sec. 29.05.020. LIMITATIONS ON INCORPORATION OF A CITY. (a) A  
20 community in the unorganized borough may not incorporate as a city if  
21 the services to be provided by the proposed city can be provided by  
22 annexation to an existing city.

23           (b) A community within a borough may not incorporate as a city  
24 if the services to be provided by the proposed city can be provided on  
25 an areawide or nonareawide basis by the borough in which the proposed  
26 city is located, or by annexation to an existing city.

27           Sec. 29.05.030. INCORPORATION OF A BOROUGH. (a) An area that  
28 meets the following standards may incorporate as a home rule, first  
29 class, or second class borough:

1 (1) the population of the area is interrelated and inte-  
2 grated as to its social, cultural, and economic activities, and is  
3 large and stable enough to support borough government;

4 (2) the boundaries of the proposed borough conform gener-  
5 ally to natural geography and include all areas necessary for full  
6 development of municipal services;

7 (3) the economy of the area includes the human and finan-  
8 cial resources capable of providing municipal services; evaluation of  
9 an area's economy includes land use, property values, total economic  
10 base, total personal income, resource and commercial development,  
11 anticipated functions, expenses, and income of the proposed borough;

12 (4) land, water, and air transportation facilities allow  
13 the communication and exchange necessary for the development of inte-  
14 grated borough government.

15 (b) An area may not incorporate as a third class borough.

16 ARTICLE 2. PROCEDURE.

17 Sec. 29.05.060. PETITION. Municipal incorporation is proposed  
18 by filing a petition with the department. The petition shall include  
19 the following information about the proposed municipality:

20 (1) class;

21 (2) name;

22 (3) boundaries;

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

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

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

29 (7) for a borough, based on the number who voted in the

1        respective areas in the last general election, the signature and  
2        resident address of 15 percent of the voters in

3                (A) home rule and first class cities in the area of  
4        the proposed borough; and

5                (B) the area of the proposed borough outside home rule  
6        and first class cities;

7                (8) for a first class borough, a designation of areawide  
8        powers to be exercised;

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

11               (10) for a first or second class city, a designation of the  
12       powers to be exercised;

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

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

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

23               Sec. 29.05.070. REVIEW. The department shall review an incorpo-  
24       ration petition for content and signatures and shall return a defi-  
25       cient petition for correction and completion.

26               Sec. 29.05.080. INVESTIGATION. (a) If an incorporation peti-  
27       tion contains the required information and signatures, the department  
28       shall investigate the proposal and shall hold at least one public  
29       informational meeting in the area proposed for incorporation. The

1 department shall publish notice of the meeting.

2 (b) The department may combine incorporation petitions from the  
3 same general area.

4 (c) The department shall report its findings to the Local Bound-  
5 ary Commission with its recommendations regarding the incorporation.

6 Sec. 29.05.090. HEARING. The Local Boundary Commission shall  
7 hold at least one public hearing in the area proposed to be incorpo-  
8 rated for the purpose of receiving testimony and evidence on the  
9 proposal.

10 Sec. 29.05.100. DECISION. (a) If the Local Boundary Commission  
11 determines that a proposed municipality fails to meet the standards  
12 for incorporation, it shall reject the petition. If the commission  
13 determines that the proposed municipality meets the standards, it  
14 shall accept the petition. If the commission determines that the  
15 proposed municipal boundaries can be altered to meet the standards, it  
16 may alter the boundaries and accept the petition.

17 (b) A Local Boundary Commission decision under this section may  
18 be appealed under the Administrative Procedure Act (AS 44.62).

19 Sec. 29.05.110. INCORPORATION ELECTION. (a) The Local Boundary  
20 Commission shall immediately notify the director of elections of its  
21 acceptance of an incorporation petition. Within 30 days after notifi-  
22 cation, the director of elections shall order an election in the pro-  
23 posed municipality to determine whether the voters desire incorpora-  
24 tion and, if so, to elect the initial municipal officials. If incor-  
25 poration is rejected, no officials are elected. The election must be  
26 held not less than 30 or more than 90 days after the date of the  
27 election order. The election order must specify the dates during  
28 which nomination petitions for election of initial officials may be  
29 filed.

1 (b) A voter who has been a resident of the area within the pro-  
2 posed municipality for 30 days before the date of the election order  
3 may vote.

4 (c) Areawide borough powers included in an incorporation peti-  
5 tion are considered to be part of the incorporation question. In an  
6 election for the incorporation of a second class borough, each non-  
7 areawide power to be exercised is placed separately on the ballot.  
8 Adoption of a nonareawide power requires a majority of the votes cast  
9 on the question, and the vote is limited to the voters residing in the  
10 proposed borough but outside all cities in the proposed borough.

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

15 (e) The director of elections shall supervise the election in  
16 the general manner prescribed by the Alaska Election Code (AS 15).  
17 The state shall pay all election costs under this section.

18 Sec. 29.05.120. ELECTION OF INITIAL OFFICIALS. (a) Nominations  
19 for initial municipal officials are made by petition. The petition  
20 shall be in the form prescribed by the director of elections and shall  
21 include the name and address of the nominee and a statement of the  
22 nominee that the nominee is qualified under the provisions of this  
23 title for the office that is sought. A person may file for and occupy  
24 more than one office, but may not serve simultaneously as

25 (1) borough mayor and as a member of the assembly; or

26 (2) city mayor and as a member of the council in a first  
27 class city.

28 (b) Except for a proposed second class city, petitions to nomi-  
29 nate initial officials must include the signature and resident address

1 of 50 voters in the area of the proposed municipality, or that area of  
2 the proposed municipality from which the officials are to be elected  
3 under the composition and apportionment set out in the accepted incor-  
4 poration petition.

5 (c) Petitions to nominate initial officials of a second class  
6 city must include the signature and resident address of 10 voters in  
7 the area of the proposed city.

8 (d) The director of elections shall supervise the election in  
9 the general manner prescribed by the Alaska Election Code (AS 15).  
10 The state shall pay all election costs.

11 (e) The initial elected officials take office on the first  
12 Monday following certification of their election.

13 (f) The initial elected members of the governing body shall  
14 determine by lot the length of their terms of office so that a propor-  
15 tionate number of terms expire each year, resulting in staggered terms  
16 of office for members subsequently elected.

17 Sec. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE  
18 AREAS. (a) A service area in a newly incorporated municipality shall  
19 be integrated into the municipality within two years after the date of  
20 incorporation. On integration the municipality succeeds to all the  
21 rights, powers, duties, assets and liabilities of the service area.  
22 On integration all property in the service area subject to taxation to  
23 pay the principal and interest on bonds at the time of integration  
24 remains subject to taxation for that purpose.

25 (b) After integration, the municipality may exercise in a former  
26 service area all of the rights and powers exercised by the service  
27 area at the time of integration, and, as successor to the service  
28 area, may levy and collect special charges, taxes, or assessments to  
29 amortize bonded indebtedness incurred by the service area or by a

1 municipality in which the service area was formerly located.

2 Sec. 29.05.140. TRANSITION. (a) The powers and duties exer-  
3 cised by cities and service areas that are succeeded to by a newly  
4 incorporated municipality continue to be exercised by the cities and  
5 service areas until the new municipality assumes the powers and func-  
6 tions, which may not exceed two years after the date of incorporation.  
7 Ordinances, rules, resolutions, procedures, and orders in effect  
8 before the transfer remain in effect until superseded by the action of  
9 the new municipality.

10 (b) Before the assumption, the new municipality shall give  
11 written notice of its assumption of the rights, powers, duties, as-  
12 sets, and liabilities under this section and AS 29.05.130 to the city  
13 or service area concerned. Municipal officials shall consult with the  
14 officials of the city or service area concerned and arrange an orderly  
15 transfer.

16 (c) After the incorporation of a new municipality, no service  
17 area in it may assume new bonded indebtedness, make a contract, or  
18 transfer an asset without the consent of the governing body.

19 (d) This section applies to home rule and general law municipal-  
20 ities.

21 Sec. 29.05.150. CHALLENGE OF LEGALITY. A person may not chal-  
22 lenge the formation of a municipality except within six months after  
23 the date of its incorporation.

24 ARTICLE 3. TRANSITIONAL ASSISTANCE.

25 Sec. 29.05.180. ORGANIZATION GRANTS TO CITIES. (a) To defray  
26 the cost of transition to city government and to provide for interim  
27 government operations, each city incorporated after June 30, 1986 is  
28 entitled to an organization grant of \$50,000 for the first full or  
29 partial fiscal year after incorporation.

1 (b) To defray the cost of reclassification, each second class  
2 city in the unorganized borough incorporated before July 1, 1986 that  
3 reclassifies as a home rule or first class city after June 30, 1986 is  
4 entitled to an organization grant equal to \$50,000 for the first full  
5 or partial fiscal year after reclassification.

6 (c) The department shall disburse an organization grant under  
7 (a) or (b) of this section within 30 days after certification of the  
8 incorporation election or the reclassification election, or as soon  
9 after certification as money is appropriated and available for the  
10 purpose.

11 (d) A city entitled to an organization grant under (a) or (b) of  
12 this section is entitled to a second organization grant of \$25,000.  
13 The department shall disburse the second organization grant within 30  
14 days after the beginning of the city's second fiscal year after incor-  
15 poration or reclassification, or as soon after that time as money is  
16 appropriated and available for the purpose.

17 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHES. (a) For the  
18 purpose of defraying the cost of transition to borough government and  
19 to provide for interim governmental operations, each borough incorpo-  
20 rated after June 30, 1986, is entitled to organization grants as fol-  
21 lows:

22 (1) \$300,000 for the borough's first full or partial fiscal  
23 year;

24 (2) \$200,000 for the borough's second fiscal year; and

25 (3) \$100,000 for the borough's third fiscal year.

26 (b) The department shall disburse the first organization grant  
27 to a borough within 30 days after certification of the incorporation  
28 election favoring incorporation of a borough, or as soon after that as  
29 money is appropriated and available for the purpose. The second grant

1 shall be disbursed within 30 days after the beginning of the borough's  
2 second fiscal year, or as soon after that as money is appropriated and  
3 available for the purpose. The third grant shall be disbursed within  
4 30 days after the beginning of the borough's third fiscal year, or as  
5 soon after that as money is appropriated and available for the pur-  
6 pose.

7 (c) This section does not apply to a borough incorporated by  
8 consolidation or to a unified municipality.

9 Sec. 29.05.200. ORGANIZATION GRANT FUND. (a) The organization  
10 grant fund is established in the department. An appropriation made to  
11 the fund shall be used for organization grants to municipalities that  
12 qualify under AS 29.05.180 or 29.05.190.

13 (b) Before August 31 of each fiscal year the department shall  
14 submit a report to the Department of Administration indicating

15 (1) each municipality expected to qualify to receive an  
16 organization grant during the next fiscal year;

17 (2) the amount of money needed to cover all organization  
18 grants expected to be awarded during the next fiscal year.

19 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGHES. (a)  
20 Within 30 days after the date of incorporation of a borough incorpo-  
21 rated after June 30, 1986, the department shall determine the popula-  
22 tion of the borough.

23 (b) The department shall provide assistance to each borough in-  
24 corporated after June 30, 1986, in

25 (1) establishing the initial sales and use tax assessment  
26 and collection department if the borough has adopted a sales or use  
27 tax;

28 (2) determining the initial property tax assessment roll if  
29 the borough has adopted a property tax, including contracting for

1 appraisals of property needed to complete the initial assessment.

2 (c) This section does not apply to a borough incorporated by  
3 consolidation or to a unified municipality.

4 \* Sec. 4. AS 29 is amended by adding a new chapter to read:

5 CHAPTER 06. ALTERATION OF MUNICIPALITIES.

6 ARTICLE 1. CHANGE OF NAME.

7 Sec. 29.06.010. CHANGE OF MUNICIPAL NAME. (a) A municipality  
8 may change its official name by adopting an ordinance for the purpose  
9 that is ratified by the voters and filing the ordinance with the  
10 office of the lieutenant governor. Upon receipt of an ordinance  
11 ratified by the voters, the lieutenant governor shall issue an order  
12 to the municipality changing its name. The name change shall become  
13 effective on a date fixed in the order and occurring within 45 days  
14 after receipt of the ordinance. A copy of the order shall be trans-  
15 mitted to the department.

16 (b) If an ordinance adopted under (a) of this section that  
17 results in a change of the municipal name is subsequently repealed,  
18 the lieutenant governor shall issue an order reinstating the former  
19 name within 45 days after the date of the order, unless a different  
20 name is adopted as provided in (a) of this section.

21 (c) When a municipal name change takes effect by means of an  
22 order issued under (a) or (b) of this section, a civil or criminal  
23 suit, application, petition, hearing or other proceeding to which the  
24 municipality is a party and that is pending at or brought after the  
25 date the name change takes effect shall proceed in the municipal name  
26 as changed by the order.

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

29 ARTICLE 2. ANNEXATION AND DETACHMENT.

1           Sec. 29.06.040. LOCAL BOUNDARY COMMISSION.   (a)   The Local  
2 Boundary Commission may consider any proposed municipal boundary  
3 change. It may reject the proposed change, accept the proposed  
4 change, or alter the boundaries and accept the proposal as altered. A  
5 Local Boundary Commission decision under this subsection may be ap-  
6 pealed under the Administrative Procedure Act (AS 44.62).

7           (b) The Local Boundary Commission may present a proposed muni-  
8 cipal boundary change to the legislature during the first 10 days of a  
9 regular session. The change becomes effective 45 days after presenta-  
10 tion or at the end of the session, whichever is earlier, unless dis-  
11 approved by a resolution concurred in by a majority of the members of  
12 each house.

13           (c) In addition to the regulations governing annexation by local  
14 action adopted under AS 44.47.567, the Local Boundary Commission shall  
15 establish procedures for annexation and detachment of territory by  
16 municipalities by local action. The procedures established under this  
17 subsection include a provision that

18                   (1) a proposed annexation and detachment must be approved  
19 by a majority of votes on the question cast by voters residing in the  
20 area proposed to be annexed or detached;

21                   (2) municipally owned property adjoining the municipality  
22 may be annexed by ordinance without voter approval; and

23                   (3) an area adjoining the municipality may be annexed by  
24 ordinance without an election if all property owners and voters in the  
25 area petition the governing body.

26           (d) A boundary change effected under (a) and (b) of this section  
27 prevails over a boundary change initiated by local action, without  
28 regard to priority in time.

29           Sec. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS. A military

1 reservation may be annexed to a municipality in the same manner as  
2 prescribed for other territory under AS 29.06.040. If a city in a  
3 borough annexes a military reservation under this section, the area  
4 encompassing the military reservation automatically is annexed to the  
5 borough in which the city is located.

6 Sec. 29.06.060. APPLICATION. AS 29.06.040 - 29.06.060 apply to  
7 home rule and general law municipalities.

8 ARTICLE 3. MERGER AND CONSOLIDATION.

9 Sec. 29.06.090. MERGER AND CONSOLIDATION. (a) Two or more  
10 municipalities may merge or consolidate to form a single municipality,  
11 except a third class borough may not be formed through merger or  
12 consolidation.

13 (b) Two methods may be used to initiate merger or consolidation  
14 of municipalities:

15 (1) petition to the Local Boundary Commission under regula-  
16 tions adopted by the commission; or

17 (2) the local option method specified in AS 29.06.100 -  
18 29.06.160.

19 Sec. 29.06.100. PETITION. (a) Residents of two or more muni-  
20 cipalities may file a merger or consolidation petition with the depart-  
21 ment. The petition must be signed by a number of voters of each  
22 existing municipality equal to at least 25 percent of the number of  
23 votes cast in each municipality's last regular election.

24 (b) The petition includes

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

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

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

29 (4) maps, documents, and other information that shows that