

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECTS

353 SCOM10: LOCAL GOVERNMENT STUDY 1979

1 NIZED BOROUGH. The commissioner may, after public hearings in the
2 areas affected, constitute the geographic area within two or more
3 regional educational attendance areas as a single unorganized borough.
4 The commissioner shall consider the standards applicable to the incorpo-
5 ration of boroughs under AS 29.18.030 and shall combine regional edu-
6 cational attendance areas into a single unorganized borough if he deter-
7 mines that the combination secures representation from and participation
8 by all areas reasonably necessary to review and comment on provision of
9 state services on a regional basis without unnecessarily reducing the
10 ability of residents of all areas to be represented on an unorganized
11 borough assembly. The commissioner may not combine regional educational
12 attendance areas which are within the territory of more than one Native
13 regional corporation established under the Alaska Native Claims Settle-
14 ment Act.

15 Sec. 44.47.420. ASSEMBLY FOR UNORGANIZED BOROUGH. (a) Provision
16 for the election of an assembly for an unorganized borough may be ini-
17 tiated by

18 (1) submission to the commissioner of a petition for an
19 election signed by the number of registered voters equal to 15 per cent
20 of the number of voters voting within the unorganized borough at the
21 last state general election; or

22 (2) submission to the commissioner of a resolution requesting
23 an election and approved by the city councils or traditional governing
24 bodies of not less than 25 per cent of the number of cities and villages
25 within the unorganized borough.

26 (b) Not less than 60 or more than 90 days after receipt of a
27 proper petition or resolution by the commissioner, the lieutenant
28 governor shall conduct an election on the question of whether an
29 assembly shall be elected in an unorganized borough. The lieutenant

governor shall submit to the voters of the unorganized borough at a special election the following question:

"Shall _____, an unorganized borough, have an unorganized borough assembly?

Yes []

No []"

(c) If a majority of the votes cast at an election under (b) of this section is in the negative, the lieutenant governor shall certify that the proposal to constitute the unorganized borough as an unorganized borough with an assembly has been rejected. A petition or resolution calling for the election of an assembly for an unorganized borough involving the same territory may not be presented within six months of the certification of the lieutenant governor under this subsection.

(d) If a majority of the votes cast at an election under (b) of this section is in the affirmative, the lieutenant governor shall certify that the proposal to constitute the unorganized borough as an unorganized borough with an assembly has been approved. The lieutenant governor shall promptly call for the nomination and election of members of the initial assembly of the unorganized borough.

Sec. 44.47.430. UNORGANIZED BOROUGH ASSEMBLY. (a) An unorganized borough in which a majority of the voters has approved election of an assembly shall elect an assembly of 11 members. Assembly members shall be elected at large by the qualified voters of the unorganized borough.

(b) Members of an unorganized borough assembly serve overlapping three-year terms. Members serve until their successors are elected and have qualified. Nothing in this section prohibits the reelection of an unorganized borough assembly member.

(c) Elections of members of the assembly of an unorganized borough

1 shall be held annually on the date of election of members of regional
2 educational attendance area school boards under AS 14.08.071(b).

3 (d) If a vacancy occurs on the assembly of an unorganized borough,
4 the remaining members shall, within 30 days, fill the vacancy. The
5 person selected to fill the vacancy shall serve until the next regular
6 election, when a successor will be elected to serve the balance of the
7 term.

8 (e) The assembly of an unorganized borough convenes on the first
9 Monday following certification of the annual election of members of the
10 borough assembly. At the meeting, the members shall elect one of their
11 number to serve as assembly chairman. The person elected shall serve as
12 chairman for one year and until his successor has been elected. A
13 chairman who remains a member of the assembly of the unorganized borough
14 assembly may be renominated and reelected as chairman without limit on
15 the number of years of service.

16 Sec. 44.47.440. DUTIES OF THE UNORGANIZED BOROUGH ASSEMBLY. The
17 assembly of an unorganized borough shall

18 (1) make and publish rules for the conduct of its meetings;

19 (2) provide for the election of other officers of the
20 assembly, and define the duties of each;

21 (3) define the duties of the chairman of the assembly of the
22 unorganized borough; and

23 (4) meet to receive, review, and provide written comments and
24 recommendations with respect to proposed capital improvements and agency
25 programs and services which involve legislative appropriations and which
26 affect the people and resources of the unorganized borough.

27 Sec. 44.47.450. POWERS OF THE UNORGANIZED BOROUGH ASSEMBLY. The
28 assembly of an unorganized borough may

29 (1) prepare studies of the resources of the unorganized

borough;

(2) serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to government agencies in the discharge of their responsibilities or in obtaining technical or financial assistance;

(3) prepare and maintain a regional planning report which

(A) establishes the goals for the unorganized borough;

(B) assesses and reports the needs of residents of the unorganized borough; and

(C) analyzes alternative ways of meeting the needs of the residents of the unorganized borough; and

(4) provide for the preparation and submission of a charter for a home rule borough in accordance with AS 29.19.010 - 29.19.090.

Sec. 44.47.460. COMPENSATION AND EXPENSES. Members of the assembly of an unorganized borough receive no salary, but are entitled to per diem and travel expenses authorized by law for state boards and commissions, unless a different per diem rate is approved by a majority of the members of the unorganized borough assembly.

Sec. 44.47.470. MISCELLANEOUS PROVISIONS. (a) A member of the assembly of an unorganized borough is subject to recall on the same grounds and in the same manner as provided for the recall of municipal officials in AS 29.28.130 - 29.28.250, except that the lieutenant governor is responsible for the receipt and review of all recall petitions and the conduct of all recall elections.

(b) Elections under AS 44.47.400 - 44.47.470, including recall elections authorized by (a) of this section, shall be conducted by the lieutenant governor consistent with the provisions of the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs.

1 Sec. 44.47.480. RELATIONSHIP OF UNORGANIZED BOROUGHs TO MUNICI-
2 PALITIES AND OTHER UNORGANIZED BOROUGH SERVICE AREAS. (a) The powers
3 and duties of an assembly of an unorganized borough may not be exercised
4 or performed in a manner which causes a conflict with the exercise or
5 performance of the powers and duties of the council of a city located
6 within the unorganized borough, whether those powers and duties are
7 conferred by statute or are assumed and exercised in accordance with the
8 provisions of a home rule charter of the city.

9 (b) Nothing in AS 44.47.400 - 44.47.480 may be construed to limit
10 the authority of

11 (1) the school board of a regional educational attendance
12 area established under AS 14.08 to provide for the operation and
13 maintenance of public schools in the unorganized borough;

14 (2) the coastal area board of a coastal resource service area
15 established under AS 46.40.110 - 46.40.180 to prepare and submit a
16 district coastal management program for the unorganized borough or
17 portion of the unorganized borough.

18 * Sec. 3. AS 44.47.050(8) and (9) are amended to read:

19 (8) administer state funds appropriated for the operation
20 [BENEFIT] of unorganized boroughs established under AS 44.47.400 -
21 44.47.480 (REGIONS WITHIN THE STATE), allowing for maximum participation
22 by unorganized borough assemblies in the allocation and use of funds
23 appropriated [LOCAL ADVISORY COUNCILS AND SIMILAR BODIES];

24 (9) assist the assemblies of unorganized boroughs to carry
25 out their duties under AS 44.47.440 and their responsibilities under
26 AS 44.47.450 and, where no assembly for an unorganized borough has
27 been authorized by the residents of the unorganized borough, carry out
28 those administrative functions in unorganized boroughs that the legis-
29 lature may prescribe;

1 * Sec. 4. AS 37.07.030(b) and (c) are amended to read:

2 (b) Each state agency shall prepare an annual plan for the op-
3 eration of each of its assigned programs except for programs that are
4 exempted from this requirement by the division. The operations plan
5 shall be prepared in the form and content and be transmitted on the date
6 prescribed by the division. If the plan involves an appropriation for
7 a service or program which affects residents of an unorganized borough
8 which has elected an unorganized borough assembly, the division shall
9 require the agency to prepare a narrative summary of the service or
10 program and to transmit the summary and the annual plan to the assembly
11 of the unorganized borough for the assembly's review and comment.
12 Appropriations for a service which affects residents of the unorganized
13 borough of the state having an unorganized borough assembly may not be
14 expended until the comments and recommendations of the assembly of the
15 affected unorganized borough have been returned to the division for
16 transmittal to the applicable state agency.

17 (c) The division shall

18 (1) review each operations plan to determine that it is
19 consistent with the policy decisions of the governor and appropriations
20 by the legislature, that it reflects proper planning and efficient
21 management methods, that appropriations have been made for the planned
22 purpose and will not be exhausted before the end of the fiscal year,
23 and that the agency has reviewed the comments and recommendations to
24 the annual plan made by an unorganized borough assembly and has con-
25 sidered these comments and recommendations in the provision of services
26 under the plan;

27 (2) approve the operations plan if satisfied that it meets
28 the requirements under (1) of this subsection; otherwise, the division
29 shall require revision of the operations plan in whole or in part;

(3) (repealed).

* Sec. 5. AS 35.30.010(a) and (c) are amended to read:

(a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located in an unorganized borough in which an assembly has been elected or is located within two miles of a village, the department shall submit the plans to the assembly of the unorganized borough or to the village council for review and comment.

(c) If final disapproval by resolution of the governing body of the affected municipality or final comment from the assembly of an unorganized borough or village council is not received within 90 days from the date the project was submitted to the municipality, assembly of an unorganized borough, or village, the department may proceed with the project.

* Sec. 6. AS 29.03.010 is amended to read:

Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not within the boundaries of an organized borough shall be included within unorganized boroughs [CONSTITUTE A SINGLE UNORGANIZED BOROUGH].

* Sec. 7. AS 29.03.020 is amended to read:

Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within [THE] unorganized boroughs [BOROUGH] to provide special services, which may include, but are not limited to, schools, utilities, land use regulations, and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

* Sec. 8. AS 29.08.010 is amended to read:

Sec. 29.08.010. HOME RULE. A home rule municipality is a municipal corporation and political subdivision and is a borough of the first class, a borough incorporated directly from an unorganized borough in accordance with AS 29.19, or a city of the first class which has adopted a home rule charter. It has all legislative powers not prohibited by law or charter.

* Sec. 9. AS 29 is amended by adding a new chapter to read:

CHAPTER 19. INCORPORATION OF A HOME RULE BOROUGH
FROM AN UNORGANIZED BOROUGH.

Sec. 29.19.010. INCORPORATION. The assembly of an unorganized borough may apply for the incorporation of a home rule borough. The petition for borough incorporation shall be filed with the Department of Community and Regional Affairs and include all information and signatures required by AS 29.18.050. The provisions of AS 29.18.050 - 29.18.090 are applicable to petitions for incorporation filed under this section.

Sec. 29.19.020. CHARTER ELECTION. The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a petition requesting direct incorporation of a home rule borough presented under this chapter. Within 30 days after receipt of notification, the lieutenant governor shall order an election within the proposed home rule borough to determine whether the voters shall elect a charter commission of 11 members, and to determine the persons elected to serve on the charter commission. The lieutenant governor shall provide not less than 20 or more than 30 days during which candidates for the charter commission may present nominating petitions. The election on the question of election of a charter commission and the determination of persons elected to serve on the charter commission shall be held not

1 less than 60 or more than 75 days after the date of the election order.

2 Sec. 29.19.030. PREPARATION OF CHARTER. (a) If, at the election
3 called by the lieutenant governor under AS 29.19.020, a majority of the
4 voters favors election of a charter commission, the 11 persons receiving
5 the highest number of votes cast at that election shall constitute the
6 charter commission. The commission shall initiate organization of a
7 home rule borough by preparing a proposed charter and submitting it to
8 the Department of Community and Regional Affairs. The proposed charter
9 shall be submitted within one year of the first meeting of the charter
10 commission. The commissioner of community and regional affairs shall
11 review the proposed charter for compliance with provisions of law
12 applicable to home rule municipalities and, if it meets these require-
13 ments, request the lieutenant governor to submit the proposed borough
14 incorporation petition and proposed home rule charter to residents of
15 the proposed home rule borough. If the proposed charter does not comply
16 with the applicable provisions of law, the commissioner shall return the
17 proposed charter to the charter commission with a statement of the legal
18 deficiencies.

19 (b) Within 90 days of the receipt of comments from the commis-
20 sioner of community and regional affairs with respect to provisions of a
21 proposed home rule charter which are not in conformance with provisions
22 of law applicable to home rule municipalities, the charter commission
23 may prepare and submit to the commissioner an amended charter which
24 meets the objections in the original proposed charter.

25 Sec. 29.19.040. LIMITATION ON SUBMISSION OF PROPOSED CHARTERS. No
26 more than one original and one amended charter may be submitted to the
27 commissioner of community and regional affairs under AS 29.19.030.

28 Sec. 29.19.050. RATIFICATION OF CHARTER. The lieutenant governor
29 shall provide for an election within the proposed home rule borough on

1 the question of whether or not the area shall be incorporated as a home
2 rule borough in accordance with the provisions of the charter submitted
3 to and approved by the commissioner of community and regional affairs.
4 The election shall be preceded by a publication and posting of the
5 proposed charter throughout the proposed borough by the lieutenant
6 governor. The election shall be held not less than 60 or more than 90
7 days following the election order.

8 Sec. 29.19.060. RESULTS OF RATIFICATION ELECTION. (a) If a
9 majority of the votes cast by the qualified voters of the proposed home
10 rule borough is against the incorporation of a borough under the
11 proposed home rule charter, the proposal is defeated.

12 (b) If a majority of the votes cast by the qualified voters of the
13 proposed home rule borough favors incorporation of the borough under the
14 proposed home rule charter, the lieutenant governor shall declare that
15 the area in which the election was held is incorporated as an organized
16 borough and a municipal corporation in accordance with provisions of the
17 home rule charter. The lieutenant governor shall provide for the
18 election of the officers provided for in the charter.

19 (c) The election and qualification of officers under (b) of this
20 section shall be completed by the lieutenant governor in conformance
21 with AS 29.18.120 and the provisions of the home rule charter of the
22 borough.

23 Sec. 29.19.070. VOTERS, ELECTIONS AND COSTS. (a) A person is
24 qualified to vote in an election authorized by AS 29.19.010 - 29.19.070
25 if he is qualified to vote in state elections and if he is a resident of
26 the area proposed for incorporation as a home rule borough.

27 (b) The lieutenant governor shall conduct elections authorized by
28 AS 29.19.010 - 29.19.060 substantially in the manner provided in the
29 Alaska Election Code (AS 15.05 - 15.60), and shall certify the results

of all elections under this chapter. Costs of elections under this chapter shall be assumed by the Office of the Lieutenant Governor.

(c) Costs of charter preparation under this chapter shall be assumed by the Department of Community and Regional Affairs.

Sec. 29.19.080. TRANSITION. The provisions of AS 29.18.130 - 29.18.180 apply to home rule boroughs incorporated under this chapter.

* Sec. 10. TRANSITIONAL PROVISIONS RELATING TO THE ELECTION AND TERMS OF OFFICE OF INITIAL MEMBERS OF THE ASSEMBLY OF AN UNORGANIZED BOROUGH. (a) The call for nomination and manner of election of members of the assembly of an unorganized borough first elected under AS 44.47.420(d), added in sec. 2 of this Act, shall be completed substantially in accordance with provisions of law providing for the nomination and election of members of the school board of a regional educational attendance area.

(b) The members of the first assembly of an unorganized borough elected in accordance with AS 44.47.430, added by sec. 2 of this Act, shall meet on the third Monday following certification of their election by the lieutenant governor at a place designated by the commissioner of the Department of Community and Regional Affairs within the unorganized borough. The commissioner, or his authorized representative, shall convene the meeting. The members of the assembly of the unorganized borough who are first elected shall determine, by lot, the length of their respective terms of office, with

(1) three members to serve until the election designated in AS 44.47.430(c) next following one full year after the date of certification of their initial election;

(2) four members to serve until the election designated in AS 44.47.430(c) next following two full years after the date of certification of their initial election;

(3) four members to serve until the election designated in AS 44.47.430(c) next following three full years after the date of certification of

their initial election.

* Sec. 11. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

WO 7573
Vassar

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to state aid to local governments; and
providing for an effective date."

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

* Section 1. AS 43.18 is amended by adding a new section to read:

Sec. 43.18.015. ADDITIONAL ENTITLEMENT. A city or organized
borough of any class which is entitled to state aid under AS 43.18.010
shall receive additional state aid for each fiscal year in the amount of
\$25,000 adjusted to include an area cost-of-living differential deter-
mined in accordance with AS 43.18.012.

* Sec. 2. This Act takes effect July 1, 1980.

STATE OF ALASKA THE LEGISLATURE

POUCH Y : STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 21, 1979

SUBJECT: Elimination of Third Class Boroughs
(Work Order Number 7574)

TO: Community and Regional Affairs Committee
Attn: Marge Gorsuch
Administrative Assistant

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

In the draft of the bill to eliminate third class boroughs it was necessary to revise statutes that used the term "third class borough" which were outside the municipal code (AS 29). In particular, attention should be given to AS 14.-12.110 which is contained in that title of the Alaska Statutes reserved for education. Although AS 14.12.110 does address a topic related to education, i.e. the composition of school boards, it also quite clearly expands the potential power of the borough assembly without any parallel provision in the municipal code. It might be desirable to add such a provision to AS 29 so that reference to that title in order to examine the powers of the borough assembly would reveal this potential dual function.

TAS:ljb

Enclosure

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act eliminating third class boroughs."

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

* Section 1. AS 29.08.030 is amended to read:

Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipalities are of four [FIVE] classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) [THIRD CLASS BOROUGHES;]
- (4) first class cities;
- (5) second class cities.

* Sec. 2. AS 29.08.040(g) is amended to read:

(g) A second class borough may reclassify as a first class [OR THIRD CLASS] borough [, AND A THIRD CLASS BOROUGH MAY RECLASSIFY AS A FIRST CLASS OR SECOND CLASS BOROUGH,] in the manner provided by AS 29.33.270 - 29.33.290 for the addition of powers by boroughs, except the petition or proposal requests reclassification instead of requesting addition of powers.

* Sec. 3. AS 29.78.010(1) is amended to read:

(1) "borough" means a general law first or [,] second [OR THIRD] class organized borough;

* Sec. 4. AS 02.15.260(10) is amended to read:

(10) "municipality" means a home rule or general law municipal corporation and political subdivision, which is a first or second class borough or city [, OR A THIRD CLASS BOROUGH,] incorporated under the

1 laws of the state;

2 * Sec. 5. AS 14.12.110 is amended to read:

3 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD. Not-
4 withstanding the provisions of this chapter or other law, a single body
5 may serve as both the borough assembly and borough school board in the
6 manner provided for in this section [THIRD CLASS BOROUGH UNDER AS 07.-
7 17.030], if a borough ordinance for that purpose is approved by the
8 assembly and ratified by a referendum of a majority of the qualified
9 borough voters voting on the question at a regular or special election,
10 and if the public school population within the borough is 500 pupils or
11 less. If a single body serves as both the borough assembly and school
12 board, the borough executive is the presiding officer of the borough
13 assembly and president of the school board and the borough executive
14 has all powers of a borough executive under AS 29.23 except for the
15 veto power.

16 * Sec. 6. AS 38.05.037(a) is amended to read:

17 (a) In areas of the state outside first and [,] second [OR THIRD]
18 class boroughs where there is no municipality with a zoning power, the
19 division of lands shall exercise the zoning power by adopting zoning
20 regulations.

21 * Sec. 7. AS 40.15.070 is amended to read:

22 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be sub-
23 divided or dedicated is situated within a first or second class borough,
24 the proposed subdivision or dedication shall be submitted to the borough
25 planning commission for approval. If the land is situated within a city
26 in the unorganized borough, [OR THE THIRD CLASS BOROUGH] the proposed
27 subdivision or dedication shall be submitted to the city planning com-
28 mission for approval. The borough planning commission is the platting
29 authority for the first or second class borough, the city planning

commission is the platting authority for the city, and the division of lands is the platting authority in the remaining areas of the state [AND THIRD CLASS BOROUGH] for the change or vacation of existing plats or a portion of such plats, as provided in AS 40.15.075. If the borough or the city does not have a planning commission, the borough assembly or the city governing body, respectively, is the platting authority and the proposed subdivision or dedication shall be submitted to it. No subdivision may be filed for record until it is approved by the platting authority.

* Sec. 8. AS 40.15.075 is amended to read:

Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH [AND THIRD CLASS BOROUGH]. The division of lands is the platting authority in the area outside organized boroughs and outside cities in the unorganized borough [AND IN THE THIRD CLASS BOROUGH] for only the purposes of hearing and acting on petitions for the change or vacation of plats and shall execute this function substantially in conformity with the provisions of AS 29.33.210 - 29.33.240. Costs of publication and mailing as well as other costs authorized in AS 29.33.210 shall be paid to the division by the petitioner. The Department of Natural Resources shall adopt reasonable regulations governing the exercise of the authority conferred by this section upon the division of lands.

* Sec. 9. AS 43.35.130 is amended to read:

Sec. 43.35.130. REFUND TO LOCAL GOVERNMENTS. The department shall refund 75 percent of the tax collected from sales of punchboards in an organized borough or city of the first or [,] second [, OR THIRD] class to the local government. The balance shall be deposited in the general fund.

* Sec. 10. A municipality which is incorporated as a third class borough on the effective date of this Act may continue to operate as such until

1 December 31, 1984 and shall retain all the rights, powers and privileges
2 which it possessed on the effective date of this Act. A third class borough
3 which has not reclassified itself in the manner provided by AS 29.33.270 -
4 29.33.290 before December 31, 1984, is reclassified as a second class borough
5 on that date.

6 * Sec. 11. The following laws are repealed: AS 29.08.040(h), (i), and
7 (j); AS 29.41; AS 29.43.040(b); and AS 38.05.037(b)(2).
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WO#7571
Chenoweth

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the responsibilities of the division of policy development and planning, Office of the Governor; and providing for an effective date."

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

* Section 1. The division of policy development and planning shall study and report to the legislature, not later than January 31, 1981, as to the conformity by state agencies, boards and commissions with the program requirements under AS 44.17.100 - 44.17.120, including but not limited to recommendations which require legislation and for the development and implementation of a master geographical coding system to report on the coordination of delivery of state services by districts.

* Sec. 2. This Act takes effect on the effective date of a version of a bill entitled "An Act establishing administrative regions in the unorganized borough, amending the responsibilities of state agencies for state programs and services for residents of boroughs and the unorganized borough, and authorizing adoption of home rule charters in administrative regions of the unorganized borough; and providing for an effective date."

WO#7569
Chenoweth

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing administrative regions in the unorganized borough, amending the responsibilities of state agencies for state programs and services for residents of boroughs and the unorganized borough, and authorizing adoption of home rule charters in administrative regions of the unorganized borough; and providing for an effective date."

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

* Section 1. PURPOSE. The purpose of this Act is to provide for the division of the state's single unorganized borough into administrative regions to accommodate the delivery of services and programs by state agencies within common boundaries and to require the collection of data and information about state programs with reference to a set of boundaries adopted for use by all state agencies for the purpose of improving the delivery of state services and encouraging the development of regional responsibilities for the planning and implementation of these services.

* Sec. 2. AS 44.47 is amended by adding new sections to read:

ARTICLE 9. UNORGANIZED BOROUGH ADMINISTRATIVE REGIONS.

Sec. 44.47.400. ESTABLISHMENT OF UNORGANIZED BOROUGH ADMINISTRATIVE REGIONS. Except as the boundaries are adjusted as provided in AS 44.47.410, the geographic area within each regional educational attendance area established under AS 14.08.031 is, effective 120 days after the effective date of this Act, established as an administrative region of the unorganized borough.

1 Sec. 44.47.410. ADJUSTMENT OF BOUNDARIES BY COMMISSIONER. The
2 commissioner may, after public hearings in the areas affected, establish
3 boundaries other than the boundaries of regional educational attendance
4 areas for administrative regions of the unorganized borough under AS 44.-
5 47.400. In making adjustments, the commissioner shall consider the
6 standards applicable to the incorporation of boroughs under AS 29.18.030
7 and the regional boundaries adopted by the Native regional corporations
8 established under the Alaska Native Claims Settlement Act. The com-
9 missioner may not establish boundaries for an administrative region for
10 the unorganized borough which include territory within more than one
11 Native regional corporation established under the Alaska Native Claims
12 Settlement Act unless the inclusion of the territory is reasonably
13 necessary for the efficient administration of programs and services by
14 state agencies.

15 * Sec. 3. AS 44.17 is amended by adding new sections to read:

16 ARTICLE 2. COLLECTION OF DATA AND INFORMATION
17 ABOUT STATE SERVICES IN DISTRICTS.

18 Sec. 44.17.100. DISTRICTS. Each of the following is a district of
19 the state:

20 (1) a borough or unified municipality incorporated under
21 AS 29; and

22 (2) an administrative region of the unorganized borough,
23 determined under AS 44.47.400 - 44.47.410.

24 Sec. 44.17.110. DATA AND INFORMATION. Each state agency, in-
25 cluding a board or commission assigned to an agency for administrative
26 purposes, shall provide for the administration of the programs for which
27 it is responsible on the basis of districts designated in AS 44.17.100
28 by

29 (1) collecting data, processing and analyzing statistics, and

1 providing information about programs on the basis of each of the dis-
2 tricts;

3 (2) developing program planning for districts;

4 (3) coordinating program planning for agency activities with
5 the plans and activities of other agencies, municipalities, and federal
6 departments and agencies in each district; and

7 (4) providing information to the governor, legislature and
8 the public for use in the preparation and consideration of the state
9 budget and other legislation bearing on the provision of state services
10 in each district.

11 Sec. 44.17.120. EXEMPTIONS AND MODIFICATIONS. (a) An exemption
12 from AS 44.17.110 may be granted by the legislature to an agency if
13 conformity would cause undue expense, hardship, or decreased efficiency
14 in the development and operation of an agency program. The agency
15 requesting the exemption shall submit to the Legislative Council

16 (1) a written statement naming the program for which the
17 exemption is sought and explaining the reasons for seeking the exemp-
18 tion; and

19 (2) an evaluation of the practicality of conforming to AS 44.-
20 17.110 within a five-year period.

21 (b) The boundaries of a district may be modified by the legisla-
22 ture if the requirements of conformity to the boundaries as set out in
23 AS 44.17.100 would be detrimental to the accomplishment of the objec-
24 tives of an agency program. An agency requesting modification of the
25 boundaries shall submit to the Legislative Council

26 (1) a statement naming the program for which modification of
27 district boundaries is requested and the reasons for seeking a modifica-
28 tion;

29 (2) a map depicting the revised boundaries which will be used

1 if a modification of boundaries is granted; and

2 (3) an evaluation of the likelihood of conforming to the
3 boundaries established in AS 44.17.100 within a five-year period.

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

5 CHAPTER 19. DIRECT INCORPORATION OF A HOME RULE BOROUGH.

6 Sec. 29.19.010. INCORPORATION. The residents of an administrative
7 region of the unorganized borough established in accordance with AS 44.-
8 47.400 - 44.47.410 may apply for the incorporation of a home rule
9 borough. The petition for borough incorporation shall be filed with the
10 Department of Community and Regional Affairs and shall include the
11 information and signatures required by AS 29.18.050. Petitions for
12 incorporation filed under this section shall be processed, reviewed and
13 determined in accordance with AS 29.18.060 - 29.18.090.

14 Sec. 29.19.020. CHARTER ELECTION. If the Local Boundary Commis-
15 sion accepts the petition filed under AS 29.19.010, it shall immediately
16 notify the lieutenant governor. Within 30 days after notification, the
17 lieutenant governor shall order an election within the proposed home
18 rule borough to determine whether the voters will elect a charter com-
19 mission of 11 members, and to determine the persons elected to serve on
20 the charter commission. The lieutenant governor shall provide not less
21 than 20 or more than 30 days during which candidates for the charter
22 commission may present nominating petitions. The election on the
23 question of election of a charter commission and the determination of
24 persons elected to serve on the charter commission shall be held not
25 less than 60 or more than 75 days after the date of the election order.

26 Sec. 29.19.030. PREPARATION OF CHARTER. (a) If, at the election
27 called by the lieutenant governor under AS 29.19.020, a majority of the
28 voters favors election of a charter commission, the 11 persons receiving
29 the highest number of votes cast at that election constitutes the charter

1 commission. The charter commission shall prepare a proposed charter and
2 submit it to the Department of Community and Regional Affairs within one
3 year of the first meeting of the charter commission. The commissioner
4 of community and regional affairs shall review the proposed charter for
5 compliance with laws applicable to home rule municipalities and, if it
6 complies, request the lieutenant governor to submit the proposed borough
7 incorporation petition and proposed home rule charter to residents of
8 the proposed home rule borough. If the proposed charter does not comply
9 with law, the commissioner shall return the proposed charter to the
10 charter commission with a statement of the legal deficiencies.

11 (b) Within 90 days of the receipt of comments from the commis-
12 sioner of community and regional affairs with respect to provisions of a
13 proposed home rule charter which are not in compliance with the laws
14 applicable to home rule municipalities, the charter commission may
15 prepare and submit to the commissioner an amended charter which meets
16 the objections in the original proposed charter.

17 (c) Only one original and one amended charter may be submitted to
18 the commissioner of community and regional affairs under this section.

19 Sec. 29.19.040. RATIFICATION OF CHARTER. The lieutenant governor
20 shall order an election on the question of whether the area shall be
21 incorporated as a home rule borough in accordance with the charter
22 approved by the commissioner of community and regional affairs. The
23 proposed charter shall be posted throughout the proposed borough by the
24 lieutenant governor before the election is held. The election shall be
25 held not less than 60 or more than 90 days following the election order.

26 Sec. 29.19.050. RESULTS OF RATIFICATION ELECTION. (a) If a
27 majority of the votes cast by the qualified voters of the proposed
28 borough is against the incorporation of a borough under the proposed
29 home rule charter, the proposal is defeated.

1 (b) If a majority of the votes cast by the qualified voters of the
2 proposed borough favors incorporation of the borough under the proposed
3 home rule charter, the lieutenant governor shall declare that the ad-
4 ministrative area in which the election was held is incorporated as an
5 organized borough and a municipal corporation in accordance with the
6 provisions of the home rule charter. The lieutenant governor shall
7 provide for the election of the officers provided for in the charter.

8 (c) The election and qualification of officers under (b) of this
9 section shall be completed by the lieutenant governor in accordance with
10 AS 29.18.120 and the provisions of the home rule charter of the borough.

11 Sec. 29.19.060. VOTERS, ELECTIONS AND COSTS. (a) A person is
12 qualified to vote in an election authorized by AS 29.19.010 - 29.19.060
13 if he is qualified to vote in state elections and if he is a resident of
14 the administrative area proposed for incorporation as a home rule
15 borough.

16 (b) The lieutenant governor shall conduct elections authorized by
17 AS 29.19.010 - 29.19.050 substantially in the manner provided in the
18 Alaska Election Code (AS 15.05 - 15.60), and shall certify the results
19 of all elections under this chapter. Costs of elections under this
20 chapter shall be paid by the office of the lieutenant governor.

21 (c) Costs of charter preparation under this chapter shall
22 be paid by the Department of Community and Regional Affairs.

23 Sec. 29.19.070. APPLICABILITY OF GENERAL TRANSITIONAL PROVISIONS.
24 The provisions of AS 29.18.130 - 29.18.180 apply to home rule boroughs
25 incorporated under this chapter.

26 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).
28
29

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

December 21, 1979

SUBJECT: Elimination of Third Class Boroughs
(Work Order Number 7574)

TO: Community and Regional Affairs Committee
Attn: Marge Gorsuch
Administrative Assistant

FROM: Thomas A. Sofo
Legislative Counsel *TAS*

In the draft of the bill to eliminate third class boroughs it was necessary to revise statutes that used the term "third class borough" which were outside the municipal code (AS 29). In particular, attention should be given to AS 14.-12.110 which is contained in that title of the Alaska Statutes reserved for education. Although AS 14.12.110 does address a topic related to education, i.e. the composition of school boards, it also quite clearly expands the potential power of the borough assembly without any parallel provision in the municipal code. It might be desirable to add such a provision to AS 29 so that reference to that title in order to examine the powers of the borough assembly would reveal this potential dual function.

TAS:ljb

Enclosure

WO 7574
SofoBY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act eliminating third class boroughs."

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

* Section 1. AS 29.08.030 is amended to read:

Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipalities are of four [FIVE] classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) [THIRD CLASS BOROUGH];
- (4) first class cities;
- (5) second class cities.

* Sec. 2. AS 29.08.040(g) is amended to read:

(g) A second class borough may reclassify as a first class [OR THIRD CLASS] borough [, AND A THIRD CLASS BOROUGH MAY RECLASSIFY AS A FIRST CLASS OR SECOND CLASS BOROUGH,] in the manner provided by AS 29.-33.270 - 29.33.290 for the addition of powers by boroughs, except the petition or proposal requests reclassification instead of requesting addition of powers.

* Sec. 3. AS 29.78.010(1) is amended to read:

(1) "borough" means a general law first or [,] second [OR THIRD] class organized borough;

* Sec. 4. AS 02.15.260(10) is amended to read:

(10) "municipality" means a home rule or general law municipal corporation and political subdivision, which is a first or second class borough or city [, OR A THIRD CLASS BOROUGH,] incorporated under the

1 laws of the state;

2 * Sec. 5. AS 14.12.110 is amended to read:

3 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD. Not-
4 withstanding the provisions of this chapter or other law, a single body
5 may serve as both the borough assembly and borough school board in the
6 manner provided for in this section [THIRD CLASS BOROUGHs UNDER AS 07.-
7 17.030], if a borough ordinance for that purpose is approved by the
8 assembly and ratified by a referendum of a majority of the qualified
9 borough voters voting on the question at a regular or special election,
10 and if the public school population within the borough is 500 pupils or
11 less. If a single body serves as both the borough assembly and school
12 board, the borough executive is the presiding officer of the borough
13 assembly and president of the school board and the borough executive
14 has all powers of a borough executive under AS 29.23 except for the
15 veto power.

16 * Sec. 6. AS 38.05.037(a) is amended to read:

17 (a) In areas of the state outside first and [,] second [OR THIRD]
18 class boroughs where there is no municipality with a zoning power, the
19 division of lands shall exercise the zoning power by adopting zoning
20 regulations.

21 * Sec. 7. AS 40.15.070 is amended to read:

22 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be sub-
23 divided or dedicated is situated within a first or second class borough,
24 the proposed subdivision or dedication shall be submitted to the borough
25 planning commission for approval. If the land is situated within a city
26 in the unorganized borough, [OR THE THIRD CLASS BOROUGH] the proposed
27 subdivision or dedication shall be submitted to the city planning com-
28 mission for approval. The borough planning commission is the platting
29 authority for the first or second class borough, the city planning

1 commission is the platting authority for the city, and the division of
2 lands is the platting authority in the remaining areas of the state [AND
3 THIRD CLASS BOROUGH] for the change or vacation of existing plats or a
4 portion of such plats, as provided in AS 40.15.075. If the borough or
5 the city does not have a planning commission, the borough assembly or
6 the city governing body, respectively, is the platting authority and the
7 proposed subdivision or dedication shall be submitted to it. No sub-
8 division may be filed for record until it is approved by the platting
9 authority.

10 * Sec. 8. AS 40.15.075 is amended to read:

11 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH [AND THIRD
12 CLASS BOROUGH]. The division of lands is the platting authority in the
13 area outside organized boroughs and outside cities in the unorganized
14 borough [AND IN THE THIRD CLASS BOROUGH] for only the purposes of
15 hearing and acting on petitions for the change or vacation of plats and
16 shall execute this function substantially in conformity with the provi-
17 sions of AS 29.33.210 - 29.33.240. Costs of publication and mailing as
18 well as other costs authorized in AS 29.33.210 shall be paid to the
19 division by the petitioner. The Department of Natural Resources shall
20 adopt reasonable regulations governing the exercise of the authority
21 conferred by this section upon the division of lands.

22 * Sec. 9. AS 43.35.130 is amended to read:

23 Sec. 43.35.130. REFUND TO LOCAL GOVERNMENTS. The department shall
24 refund 75 percent of the tax collected from sales of punchboards in an
25 organized borough or city of the first or [,] second [, OR THIRD] class
26 to the local government. The balance shall be deposited in the general
27 fund.

28 * Sec. 10. A municipality which is incorporated as a third class borough
29 on the effective date of this Act may continue to operate as such until

1 December 31, 1984 and shall retain all the rights, powers and privileges
2 which it possessed on the effective date of this Act. A third class borough
3 which has not reclassified itself in the manner provided by AS 29.33.270 -
4 29.33.290 before December 31, 1984, is reclassified as a second class borough
5 on that date.

6 * Sec. 11. The following laws are repealed: AS 29.08.040(h), (i), and
7 (j); AS 29.41; AS 29.43.040(b); and AS 38.05.037(b)(2).
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w.o. 7356
Chenoweth

1 IN THE SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring fiscal notes for bills affecting a
7 municipality."

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

9 * Section 1. AS 24.30.035 is amended to read:

10 Sec. 24.30.035. FISCAL NOTES ON BILLS. Before a bill is reported
11 from the committee of first referral, there shall be attached to the
12 bill a fiscal note containing an estimate of the amount of the appropria-
13 tion increase or decrease which would result from enactment of the bill
14 for the ensuing fiscal year and at least two succeeding fiscal years.
15 If enactment of the bill would require an expenditure or appropriation
16 by any municipality, a fiscal note shall be attached to the bill con-
17 taining an estimate of the amount of the total expenditure or appropria-
18 tion which would be required during each of the first three fiscal
19 years by all affected municipalities. If [OR, IF] the bill has no
20 fiscal impact, a statement to that effect shall be attached. The fiscal
21 note or statement relating to a state program shall be prepared by the
22 department or departments affected. The fiscal note or statement relat-
23 ing to municipalities shall be prepared by the Department of Community
24 and Regional Affairs, but that department may obtain the assistance of
25 any other state agency in the preparation of the note or statement. If
26 the bill is presented by the governor for introduction in accordance
27 with AS 24.30.060(b) and the uniform rules of the legislature, the
28 fiscal note or statement shall be attached to the bill before the bill
29 is introduced. An amendment or a substitute bill proposed by a commit-

WORK DRAFT PAPER

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tee of referral that changes the fiscal impact of a bill shall be
explained in a revised fiscal note or statement attached to the bill.

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w.o. 7356
Chenoweth

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring fiscal notes for bills affecting a
7 municipality."

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

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10 Sec. 24.30.035. FISCAL NOTES ON BILLS. Before a bill is reported
11 from the committee of first referral, there shall be attached to the
12 bill a fiscal note containing an estimate of the amount of the appropria-
13 tion increase or decrease which would result from enactment of the bill
14 for the ensuing fiscal year and at least two succeeding fiscal years.
15 If enactment of the bill would require an expenditure or appropriation
16 by any municipality, a fiscal note shall be attached to the bill con-
17 taining an estimate of the amount of the total expenditure or appropria-
18 tion which would be required during each of the first three fiscal
19 years by all affected municipalities. If [OR, IF] the bill has no
20 fiscal impact, a statement to that effect shall be attached. The fiscal
21 note or statement relating to a state program shall be prepared by the
22 department or departments affected. The fiscal note or statement relat-
23 ing to municipalities shall be prepared by the Department of Community
24 and Regional Affairs, but that department may obtain the assistance of
25 any other state agency in the preparation of the note or statement. If
26 the bill is presented by the governor for introduction in accordance
27 with AS 24.30.060(b) and the uniform rules of the legislature, the
28 fiscal note or statement shall be attached to the bill before the bill
29 is introduced. An amendment or a substitute bill proposed by a commit-

tee of referral that changes the fiscal impact of a bill shall be explained in a revised fiscal note or statement attached to the bill.

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PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.



Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all
correspondence to:
LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

JANUARY 18, 1980

PROPOSED JOINT COMMITTEE LEGISLATION

1. Act establishing unorganized boroughs
2. Program of planning assistance for unorganized boroughs
3. Relating to the responsibilities of the division of policy development and planning
4. Relating to the incorporation of second class boroughs as home rule boroughs
5. Relating to state aid to local governments
6. Eliminating third class boroughs
7. Requiring fiscal notes for bills affecting a municipality

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing unorganized boroughs, amending the
7 responsibilities of state agencies for state programs
8 and services for residents of organized and unorganized
9 boroughs, and authorizing adoption of home rule char-
10 ters by unorganized boroughs; and providing for an
11 effective date."

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

13 * Section 1. PURPOSE. The purpose of this Act is to provide for the
14 division of the state's single unorganized borough into ^{several} unorganized boroughs
15 to accommodate the delivery of services and programs by state agencies within
16 common boundaries and to require the collection of data and information about
17 state programs with reference to a set of boundaries adopted for use by all
18 state agencies for the purpose of improving the delivery of state services
19 and encouraging the development of regional responsibilities for the planning
20 and implementation of these services.

21 * Sec. 2. AS 29.03 is amended by adding new sections to read:

22 Sec. 29.03.011. ESTABLISHMENT OF UNORGANIZED BOROUGHs. Except as
23 the boundaries are adjusted as provided in AS 29.03.021, the geographic
24 area within each regional educational attendance area established under
25 AS 14.08.031 is, effective 120 days after the effective date of this
26 Act, established as an unorganized borough.

27 Sec. 29.03.021. ADJUSTMENT OF BOUNDARIES BY ^{Boundary Commission} COMMISSIONER. The
28 commissioner may, after public hearings in the areas affected, establish
29 boundaries other than the boundaries of a regional educational attend-

1 ance area for an unorganized borough under AS 29.03.011. In making
2 adjustments, the commissioner shall consider the standards applicable to
3 the incorporation of boroughs under AS 29.18.030 and the regional boun-
4 daries adopted by the Native regional corporations established under the
5 Alaska Native Claims Settlement Act. The commissioner may not establish
6 boundaries for an unorganized borough which include territory within
7 more than one Native regional corporation established under the Alaska
8 Native Claims Settlement Act unless the inclusion of the territory is
9 reasonably necessary for the efficient administration of programs and
10 services by state agencies.

11 * Sec. 3. AS 44.17 is amended by adding new sections to read:

12 ARTICLE 2. COLLECTION OF DATA AND INFORMATION
13 ABOUT STATE SERVICES IN DISTRICTS.

14 Sec. 44.17.100. DISTRICTS. Each of the following is a district of
15 the state:

- 16 (1) a borough or unified municipality incorporated under
17 AS 29; and
18 (2) an unorganized borough determined under AS 29.03.011 -
19 29.03.021.

20 Sec. 44.17.110. DATA AND INFORMATION. Each state agency, in-
21 cluding a board or commission assigned to an agency for administrative
22 purposes, shall provide for the administration of the programs for which
23 it is responsible on the basis of districts designated in AS 44.17.100
24 by

- 25 (1) collecting data, processing and analyzing statistics, and
26 providing information about programs on the basis of each of the dis-
27 tricts;
28 (2) developing program planning for districts;
29 (3) coordinating program planning for agency activities with

1 the plans and activities of other agencies, municipalities, and federal
2 departments and agencies in each district; and

3 (4) providing information to the governor, legislature and
4 the public for use in the preparation and consideration of the state
5 budget and other legislation bearing on the provision of state services
6 in each district.

7 Sec. 44.17.120. EXEMPTIONS AND MODIFICATIONS. (a) An exemption
8 from AS 44.17.110 may be granted by the legislature to an agency if
9 conformity would cause undue expense, hardship, or decreased efficiency
10 in the development and operation of an agency program. The agency
11 requesting the exemption shall submit to the Legislative Council

12 (1) a written statement naming the program for which the
13 exemption is sought and explaining the reasons for seeking the exemp-
14 tion; and

15 (2) an evaluation of the practicality of conforming to
16 AS 44.17.110 within a five-year period.

17 (b) The boundaries of a district may be modified by the legisla-
18 ture if the requirements of conformity to the boundaries as set out in
19 AS 44.17.100 would be detrimental to the accomplishment of the objec-
20 tives of an agency program. An agency requesting modification of the
21 boundaries shall submit to the Legislative Council

22 (1) a statement naming the program for which modification of
23 district boundaries is requested and the reasons for seeking a modifica-
24 tion;

25 (2) a map depicting the revised boundaries which will be used
26 if a modification of boundaries is granted; and

27 (3) an evaluation of the likelihood of conforming to the
28 boundaries established in AS 44.17.100 within a five-year period.

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

1 CHAPTER 19. DIRECT INCORPORATION OF A HOME RULE BOROUGH.

2 Sec. 29.19.010. INCORPORATION. (a) The residents of an unorgan-
3 ized borough established in accordance with AS 29.03.011 - 29.03.021 may
4 apply for the incorporation of a home rule borough. The petition for
5 borough incorporation shall be filed with the Department of Community
6 and Regional Affairs and shall include the information and signatures
7 required by AS 29.18.050. Petitions for incorporation filed under this
8 section shall be processed, reviewed and determined in accordance with
9 AS 29.18.060 - 29.18.090.

10 (b) The standards applicable to the incorporation of an organized
11 borough under art. X, sec. 3 of the state constitution and AS 29.18.030
12 apply to the incorporation of an organized borough under this section.

13 Sec. 29.19.020. CHARTER ELECTION. If the Local Boundary Commis-
14 sion accepts the petition filed under AS 29.19.010, it shall immediately
15 notify the lieutenant governor. Within 30 days after notification, the
16 lieutenant governor shall order an election within the proposed home
17 rule borough to determine whether the voters will elect a charter com-
18 mission of 11 members, and to determine the persons elected to serve on
19 the charter commission. The lieutenant governor shall provide not less
20 than 20 or more than 30 days during which candidates for the charter
21 commission may present nominating petitions. The election on the
22 question of election of a charter commission and the determination of
23 persons elected to serve on the charter commission shall be held not
24 less than 60 or more than 75 days after the date of the election order.

25 Sec. 29.19.030. PREPARATION OF CHARTER. (a) If, at the election
26 called by the lieutenant governor under AS 29.19.020, a majority of the
27 voters favors election of a charter commission, the 11 persons receiving
28 the highest number of votes cast at that election constitutes the char-
29 ter commission. The charter commission shall prepare a proposed charter

1 and submit it to the Department of Community and Regional Affairs within
2 one year of the first meeting of the charter commission. The commis-
3 sioner of community and regional affairs shall review the proposed
4 charter for compliance with laws applicable to home rule municipalities
5 and, if it complies, request the lieutenant governor to submit the
6 proposed borough incorporation petition and proposed home rule charter
7 to residents of the proposed home rule borough. If the proposed charter
8 does not comply with law, the commissioner shall return the proposed
9 charter to the charter commission with a statement of the legal defi-
10 ciencies.

11 (b) Within 90 days of the receipt of comments from the commis-
12 sioner of community and regional affairs with respect to provisions of a
13 proposed home rule charter which are not in compliance with the laws
14 applicable to home rule municipalities, the charter commission may
15 prepare and submit to the commissioner an amended charter which meets
16 the objections in the original proposed charter.

17 (c) Only one original and one amended charter may be submitted to
18 the commissioner of community and regional affairs under this section.

19 Sec. 29.19.040. RATIFICATION OF CHARTER. The lieutenant governor
20 shall order an election on the question of whether the area shall be
21 incorporated as a home rule borough in accordance with the charter
22 approved by the commissioner of community and regional affairs. The
23 proposed charter shall be posted throughout the proposed borough by the
lieutenant governor before the election is held. The election shall be
held not less than 60 or more than 90 days following the election order.

Sec. 29.19.050. RESULTS OF RATIFICATION ELECTION. (a) If a
majority of the votes cast by the qualified voters of the proposed
borough is against the incorporation of a borough under the proposed
home rule charter, the proposal is defeated.

1 (b) If a majority of the votes cast by the qualified voters of the
2 proposed borough favors incorporation of the borough under the proposed
3 home rule charter, the lieutenant governor shall declare that the un-
4 organized borough in which the election was held is incorporated as an
5 organized borough and a municipal corporation in accordance with the
6 provisions of the home rule charter. The lieutenant governor shall
7 provide for the election of the officers provided for in the charter.

8 (c) The election and qualification of officers under (b) of this
9 section shall be completed by the lieutenant governor in accordance with
10 AS 29.18.120 and the provisions of the home rule charter of the borough.

11 Sec. 29.19.060. VOTERS, ELECTIONS AND COSTS. (a) A person is
12 qualified to vote in an election authorized by AS 29.19.010 - 29.19.060
13 if he is qualified to vote in state elections and if he is a resident of
14 the unorganized borough proposed for incorporation as a home rule *how long?*
15 borough.

16 (b) The lieutenant governor shall conduct elections authorized by
17 AS 29.19.010 - 29.19.050 substantially in the manner provided in the
18 Alaska Election Code (AS 15.05 - 15.60), and shall certify the results
19 of all elections under this chapter. Costs of elections under this
20 chapter shall be paid by the office of the lieutenant governor.

21 (c) Costs of charter preparation under this chapter shall
22 be paid by the Department of Community and Regional Affairs.

23 Sec. 29.19.070. APPLICABILITY OF GENERAL TRANSITIONAL PROVISIONS.
24 The provisions of AS 29.13.130 - 29.18.130 apply to home rule boroughs
25 incorporated under this chapter.

* Sec. 5. AS 29.03.010 and 29.03.020 are repealed.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
070(c).

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing a program of planning assistance for unorganized boroughs; and providing for an effective date."

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

* Section 1. AS 44.47 is amended by adding a new section to read:

Sec. 44.47.085. ASSISTANCE FOR DEVELOPMENT OF REGIONAL MANAGEMENT PROGRAMS IN THE UNORGANIZED BOROUGH. (a) For the purpose of preparing a management program for an unorganized borough, the commissioner may contract as provided by this section with

- (1) a municipality or group of municipalities; or
- (2) a nonprofit corporation organized under the laws of the state.

(b) The commissioner may contract for the preparation of only one management program for each unorganized borough. ~~The commissioner may contract~~ only if he is satisfied that the municipality, group of municipalities, or corporation with which he contracts is capable of preparing a management program that considers the entire population of the unorganized borough.

(c) A municipality, group of municipalities, or corporation interested in preparing a management program for an unorganized borough may ask the commissioner to request a proposal or the commissioner may request a proposal on his own initiative. A request for proposal shall be advertised. The advertisement of a request for a proposal for the preparation of a management program for the unorganized borough shall

1 outline the work to be completed, and contain other information which
2 the commissioner believes necessary and which he requires to advise the
3 public of the work to be completed under the contract, and which will
4 assist him in evaluating proposals received. The commissioner shall
5 advertise for a period of not less than 45 days by any means which he
6 believes will provide adequate notice to interested parties and resi-
7 dents of the unorganized borough.

8 (d) After receiving the proposals the commissioner shall evaluate
9 them. The commissioner may refuse all proposals and readvertise, or may
10 accept a proposal and contract in accordance with (e) of this section.

11 (e) A contract entered into under this section shall

12 (1) require that the report to be completed under the con-
13 tract include an analysis and recommendations concerning incorporation
14 of a borough government for all or a portion of the unorganized borough;
15 and

16 (2) provide that

17 (A) the work to be performed shall be completed not
18 later than the June 30 following the third anniversary of the date
19 of the contract;

20 (B) payment for work performed under the contract is
21 subject to legislative appropriation to the account established in
22 (g) of this section; and

23 (C) payment for work performed under the contract during
24 each fiscal year in which the contract is in effect may not exceed
25 the limit established in (h) of this section.

26 (f) A contract entered into under this section may require the
27 contractor to consider additional topics, including but not limited to,

28 (1) evaluation of the economic development potential of the
unorganized borough;

- 1 (2) determination of housing and capital facility needs;
2 (3) examination of demographic, social and environmental
3 factors; and
4 (4) presentation of a process for developing the report and
5 implementing its recommendations.

6 (g) There is established in the Department of Community and Re-
7 gional Affairs the unorganized borough planning account. The account
8 shall be administered by the commissioner and shall be used to pay for
9 contracts entered into under this section.

10 (h) During each fiscal year, the commissioner may not pay to a
11 contractor under a contract authorized by this section more than \$25,000
12 plus \$25 per capita for each person residing within the unorganized
13 borough, as determined by the commissioner.

14 (i) In this section, "unorganized borough" means a subdivision
15 established under AS 29.03.011 - 29.03.021.

16 * Sec. 2. This Act takes effect on the effective date of a version of an
17 Act entitled, "An Act establishing unorganized boroughs, amending the respon-
18 sibilities of state agencies for state programs and services that benefit
19 residents of organized and unorganized boroughs, and authorizing adoption of
20 home rule charters by unorganized boroughs; and providing for an effective
21 date."

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the responsibilities of the divi-
7 sion of policy development and planning, Office of the
8 Governor; and providing for an effective date."

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

10 * Section 1. The division of policy development and planning shall study
11 and report to the legislature, not later than January 31, 1981, as to the
12 conformity by state agencies, boards and commissions with the program re-
13 quirements under AS 44.17.100 - 44.17.120, including but not limited to
14 recommendations which require legislation and for the development and im-
15 plementation of a master geographical coding system to report on the coordi-
16 nation of delivery of state services by districts.

17 * Sec. 2. This Act takes effect on the effective date of a version of a
18 bill entitled "An Act establishing unorganized boroughs, amending the respon-
19 sibilities of state agencies for state programs and services for residents of
20 organized and unorganized boroughs, and authorizing adoption of home rule
charters by unorganized boroughs; and providing for an effective date."

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the incorporation of second class
7 boroughs as home rule boroughs."

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

9 * Section 1. AS 29.13.010 is amended to read:

10 Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class muni-
11 cipality or second class borough may adopt a charter for its own govern-
12 ment. A home rule municipality may amend its charter or adopt a new
13 one. A charter is framed by a charter commission of seven members
14 chosen by the municipal voters at a regular or special election. A
15 candidate for the commission must be a qualified voter of the muni-
16 cipality and a resident of the municipality for three years immediately
17 preceding the election. A charter commission election is called by
18 filing a petition with the borough assembly or the city council, or by
19 resolution of the borough assembly or city council. The petition must
20 be signed by a number of municipal voters equal to 10 percent of the
21 votes cast in the last regular election of the municipality.

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state aid to local governments; and
7 providing for an effective date."

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

9 * Section 1. AS 43.18 is amended by adding a new section to read:

10 Sec. 43.18.015. ADDITIONAL ENTITLEMENT. A city or organized
11 borough of any class which is entitled to state aid under AS 43.18.010
12 shall receive additional state aid for each fiscal year in the amount of
13 \$25,000 adjusted to include an area cost-of-living differential deter-
14 mined in accordance with AS 43.18.012.

15 * Sec. 2. This Act takes effect July 1, 1980.
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BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act eliminating third class boroughs."

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

* Section 1. AS 29.08.030 is amended to read:

Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipalities are of four [FIVE] classes:

- (1) first class boroughs; *UNIFIED BOROUGHs*
- (2) second class boroughs; *HOME RULE Boroughs*
- (3) [THIRD CLASS BOROUGHs;]
- (4) first class cities;
- (5) second class cities.

* Sec. 2. AS 29.08.040(g) is amended to read:

(g) A second class borough may reclassify as a first class [OR THIRD CLASS] borough [, AND A THIRD CLASS BOROUGH MAY RECLASSIFY AS A FIRST CLASS OR SECOND CLASS BOROUGH,] in the manner provided by AS 29.-33.270 - 29.33.290 for the addition of powers by boroughs, except the petition or proposal requests reclassification instead of requesting addition of powers.

* Sec. 3. AS 29.78.010(1) is amended to read:

(1) "Borough" means a general law first or [,] second [OR THIRD] class organized borough;

* Sec. 4. AS 02.15.260(10) is amended to read:

(10) "municipality" means a home rule or general law municipal corporation and political subdivision, which is a first or second class borough or city [, OR A THIRD CLASS BOROUGH,] incorporated under the

1 laws of the state;

2 * Sec. 5. AS 14.12.110 is amended to read:

3 Sec. 14.12.110. SINGLE BODY AS ASSEMBLY AND SCHOOL BOARD. Not-
4 withstanding the provisions of this chapter or other law, a single body
5 may serve as both the borough assembly and borough school board in the
6 manner provided for in this section [THIRD CLASS BOROUGH UNDER AS 07.-
7 17.030], if a borough ordinance for that purpose is approved by the
8 assembly and ratified by a referendum of a majority of the qualified
9 borough voters voting on the question at a regular or special election,
10 and if the public school population within the borough is 500 pupils or
11 less. If a single body serves as both the borough assembly and school
12 board, the borough executive is the presiding officer of the borough
13 assembly and president of the school board and the borough executive
14 has all powers of a borough executive under AS 29.23 except for the
15 veto power.

16 * Sec. 6. AS 38.05.037(a) is amended to read:

17 (a) In areas of the state outside first and [,] second [OR THIRD]
18 class boroughs where there is no municipality with a zoning power, the
19 division of lands shall exercise the zoning power by adopting zoning
20 regulations.

21 * Sec. 7. AS 40.15.070 is amended to read:

22 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be sub-
23 divided or dedicated is situated within a first or second class borough,
24 the proposed subdivision or dedication shall be submitted to the borough
25 planning commission for approval. If the land is situated within a city
26 in the unorganized borough, [OR THE THIRD CLASS BOROUGH] the proposed
27 subdivision or dedication shall be submitted to the city planning com-
28 mission for approval. The borough planning commission is the platting
29 authority for the first or second class borough, the city planning

1 commission is the platting authority for the city, and the division of
2 lands is the platting authority in the remaining areas of the state [AND
3 THIRD CLASS BOROUGH] for the change or vacation of existing plats or a
4 portion of such plats, as provided in AS 40.15.075. If the borough or
5 the city does not have a planning commission, the borough assembly or
6 the city governing body, respectively, is the platting authority and the
7 proposed subdivision or dedication shall be submitted to it. No sub-
8 division may be filed for record until it is approved by the platting
9 authority.

10 * Sec. 8. AS 40.15.075 is amended to read:

11 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH [AND THIRD
12 CLASS BOROUGH]. The division of lands is the platting authority in the
13 area outside organized boroughs and outside cities in the unorganized
14 borough [AND IN THE THIRD CLASS BOROUGH] for only the purposes of
15 hearing and acting on petitions for the change or vacation of plats and
16 shall execute this function substantially in conformity with the provi-
17 sions of AS 29.33.210 - 29.33.240. Costs of publication and mailing as
18 well as other costs authorized in AS 29.33.210 shall be paid to the
19 division by the petitioner. The Department of Natural Resources shall
20 adopt reasonable regulations governing the exercise of the authority
21 conferred by this section upon the division of lands.

22 * Sec. 9. AS 43.35.130 is amended to read:

23 Sec. 43.35.130. REFUND TO LOCAL GOVERNMENTS. The department shall
24 refund 75 percent of the tax collected from sales of punchboards in an
25 organized borough or city of the first or [,] second [, OR THIRD] class
26 to the local government. The balance shall be deposited in the general
27 fund.

28 * Sec. 10. A municipality which is incorporated as a third class borough
29 on the effective date of this Act may continue to operate as such until

1 December 31, 1984 and shall retain all the rights, powers and privileges
2 which it possessed on the effective date of this Act. A third class borough
3 which has not reclassified itself in the manner provided by AS 29.33.270 -
4 29.33.290 before December 31, 1984, is reclassified as a second class borough
5 on that date.

6 * Sec. 11. The following laws are repealed: AS 29.58.040(h), (i), and
7 (j); AS 29.41; AS 29.43.040(b); and AS 38.05.037(b)(2).
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7 7686
Chenoweth

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring fiscal notes for bills affecting a
7 municipality."

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

9 * Section 1. AS 24.30.035 is amended to read:

10 Sec. 24.30.035. FISCAL NOTES ON BILLS. Before a bill is reported
11 from the committee of first referral, there shall be attached to the
12 bill a fiscal note containing an estimate of the amount of the appropria-
13 tion increase or decrease which would result from enactment of the bill
14 for the ensuing fiscal year and at least two succeeding fiscal years.
15 If enactment of the bill would require an expenditure or appropriation
16 by any municipality, a fiscal note shall be attached to the bill con-
17 taining an estimate of the amount of the total expenditure or appropria-
18 tion which would be required during each of the first three fiscal
19 years by all affected municipalities. If [OR, IF] the bill has no
20 fiscal impact, a statement to that effect shall be attached. The fiscal
21 note or statement relating to a state program shall be prepared by the
22 department or departments affected. The fiscal note or statement relat-
23 ing to municipalities shall be prepared by the Department of Community
24 and Regional Affairs, but that department may obtain the assistance of
25 any other state agency in the preparation of the note or statement. If
26 the bill is presented by the governor for introduction in accordance
27 with AS 24.30.060(b) and the uniform rules of the legislature, the
28 fiscal note or statement shall be attached to the bill before the bill
29 is introduced. An amendment or a substitute bill proposed by a commit-

tee of referral that changes the fiscal impact of a bill shall be
explained in a revised fiscal note or statement attached to the bill.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SCOMM

#10:36

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

August 16, 1979

SUBJECT: Local Government Study drafting assignment

TO: Senator Arliss Sturgulewski, Chairman
Senate Community and Regional Affairs Committee

Representative Bill Parker, Chairman
House Community and Regional Affairs Committee

FROM: John B. Chenoweth
Legislative Counsel

Some preliminary questions:

The outline dated August 14 describes some of the subject matter which should be covered. Initially, the division of the state's single unorganized borough is to be completed. Senate Bill 35 (1977) providing for the division of the unorganized borough into regional educational attendance areas is to serve as the model.

(1) Please advise whether it is sufficient, for your purposes, to provide that the boundaries of REAAs shall serve as the boundaries for unorganized boroughs.

If so:

What provision is to be made to accommodate the smaller "regional" educational attendance areas -- St. Paul, Adak, Metlakatla -- into the surrounding REAA/unorganized boroughs? Or should they be? The answer to this probably depends on the relationship you see emerging between educational functions (now handled through REAAs) and any and all other functions which may be handled through unorganized boroughs.

If not:

Who shall make the determination by which an existing REAA shall be divided or combined with an adjacent REAA (for purposes of this effort)? The commissioner of

community and regional affairs? The Local Boundary Commission? By what standards? Is it at all significant that, under this approach, a given community might find itself linked with its neighbors on one side for purposes of education and with a different group (or larger group, or smaller group) for purposes of planning and delivery of other services?

Should the line drawing (or re-drawing) be handled expeditiously (as in SB 35 -- maximum of 4 to 6 months) or be allowed to move at whatever pace is necessary, as is presently the case in coastal zone service areas?

What is meant by the entry "follow-up adjustment by the Local Boundary Commission?"

(2) Matter of unorganized borough councils: I assume that "unorganized boroughs" are to be voluntarily formed (following the coastal zone model) rather than mandated (as was done with REAAs). Am I right? Should I provide for an initial council of a fixed size (as was done with REAAs)? If not, in the absence of a set statutory number, who decides? How are unorganized boroughs initiated: public petition? resolution of the legislature to the commissioner/local boundary commission? Do I worry about "one village, one vote?" How elected: at large? by districts? some combination of both? Who decides? Is this decision made by area residents upon submission of a petition? Can existing REAA school boards also serve as unorganized borough councils? Should they be able to if people in an REAA want them to? Should it be barred -- in order to keep the educational function wholly separate? Can existing coastal service area boards serve the function of an unorganized borough council? Should they be able to if they want to? Should this be barred? If an unorganized borough council is established, should the election occur at the same time as elections for other "regional posts, i.e. when the regional school board and regional coastal management board are elected? If not, when? Who conducts these elections? Who pays for their costs? The outline says "Councils (Advisory)" -- are they to be advisory? In the same way that a community council is advisory to, say, the Anchorage assembly (i.e. the state agency would continue to have final say)? In the way a coastal management service area board's authority is circumscribed (i.e., a coastal management service area board may secure judicial review of

the actions of a state agency to conform to regional coastal management service area board decisions)? Should their authority be plenary within general guidelines set down by statute? Are these beasts to be "advisory" to the legislature in its capacity as the "assembly for the unorganized borough?" If so, should we establish a scheme whereby the relationship is "unorganized borough -- state legislature" rather than "unorganized borough -- state agency", thereby isolating program and budget factors from the requirements of general law? Is this desirable with half Alaska's population and legislature drawn from urban areas?

(3) Functions: We are agreed, I think, on some initial general functions: health; social services (public assistance); public safety (i.e. police and fire protection and, perhaps, emergency medical services/search and rescue). Let me also tentatively suggest to be added to the list (with full appreciation for the fact that it reopens the debate on management of fish and game) "natural resources conservation and management" (See Article III, section 2, State Constitution) and its derivative function, land use planning.

The first item under this heading is "planning." I think, but need you to affirm, that "planning" for the deliverance or provision of any one of the foregoing is the essential first step in that provision or deliverance, that "planning" should not be separated from "implementation" and that the two are merely parts of the same unit. Under that interpretation, an unorganized borough council might opt for health "planning" as part and parcel, and only as part and parcel, of assuming responsibilities for health functions. If I am in error on this, please advise, but the logical upshot is that you may wind up with a situation where the regional entity "plans" and the state agency budgets and executes almost entirely without ready reference to those "plans."

The next entry, "coordination and review", needs clarification. I would ask: with whom and for what purpose?

The matter of the relationship between these beasts and existing REAAs and coastal management initiatives I leave to you. Please tell me, at least for purposes of drafting, how you see these fitting together.

I am concerned, too, for the notion of "extended home rule." I have not the foggiest notion of what the participants may see in this as the answer to their concerns or problems. What is it, in Title 29 or elsewhere, that is so odious, so difficult, so threatening as to warrant "instant home rule?" I say this in all seriousness, for I do not want to throw out or suggest some home rule binder requirements that step on the hopes and expectations of participants? "One village - one vote?" Home rule probably cannot skirt this issue: there are federal constitutional precepts involved. What else is there? What is it, for openers, that people in the Upper Yukon may see in home rule? What is it the North Slope Borough officials saw in "traditional" (i.e. municipal) home rule? Did they use home rule to accomplish their expectations?

What about procedures bearing upon instant gratification through immediate adoption of home rule? Do we start with a "general law unorganized borough" and require its council to initiate the home rule charter adoption process? Do we mandate a process? Minimal requirements for inclusion in a charter? Do we allow residents to develop a home rule unorganized borough where no regional general government unit now exists? HOW???

Who prepares the charter? Should the legislature, acting as assembly for the unorganized borough, receive the petition of residents and, by local legislation, direct the preparation of a charter for this area, another (at a later date) for that region, and so forth? Do these charters need to be reviewed and approved (or not disapproved) by anyone? Legislative review? Commissioner of community and regional affairs? How long should the framers of the charter have to complete the effort? Who approves at the local level? Who pays for that election?

And, when you have totalled up whatever it is you decide on home rule for the unorganized borough, please pause to consider the implications that this result has on existing home rule municipalities, bound, as they are, by some interesting ad hoc provisions in AS 29.13. Conceivably, home rule in unorganized areas could prove to be far broader than home rule concepts and precepts applicable within municipalities. Is this desirable?

(4) Financing and services: Is there to be a local effort requirement for any service? for all services? Is it a necessary requirement? Do we authorize levy and collection of taxes? Which ones? What limits? How about any fees? Do I worry about protection against taxation of undeveloped lands, boats, the property of senior citizens, and other classes which have been identified as exempt or partially exempt from municipal taxation? Do you allow "in kind?" At what value? Who decides? Does it matter???

(5) The title heading is "recognition of villages," but the single response listed says "third class cities." Is this to be the response? Do I follow the department's draft on this? Should existing cities be permitted to "declassify" from first or second class city status to take advantage of this additional class of city? Does this establishment of yet another class of city answer the real issue on "recognition of village governments" (i.e. recognition of tribes or IRA councils) or are we just adding another option in Title 29 which, we are told, does not work in many rural areas anyway?

These are, as the first paragraph indicates, my preliminary questions bearing on a first draft.

JBC:jdn

*I do not mean to be critical, but this matter of "in kind" contributions serving in place of cash really could be significant. I understand from Marge Gorsuch that the governor is insisting that unorganized borough units begin to make some contribution. I also recall how the legislature recently treated with "in kind" contributions in legislation authorizing construction of cultural facilities. In that legislation, you will recall, there is a formula by which the amount of required local contribution to the project is to be determined. The legislature allows a municipality to count toward satisfaction of that requirement donations of land on which the facility is to be built, indicating how that value is to be ascertained, but without inquiring as to how the municipality came to hold title. Thus, with an "in kind" contribution to the project of land which the municipality gained at little or no cost, the municipality can effectively shift the entire cash burden for construction to the state.

I see "in kind" as opening the door to maintaining 100 percent state support for the planning and delivery of services in unorganized boroughs, retaining the same system of financing these services as we have now. This may be desirable on the part of legislators, indeed, may be necessary from the point of view of urging organization of these areas. But I am concerned that, in dwelling on the topics of "boundary delineation", "powers of councils", and "functions and authorities", the most significant subject of equitable financial contributions is being set aside for further study at a "later" time. The state is chugging merrily down the road to financial turmoil in those years that oil and gas contributions to the general fund begin to fall off. The difficult question of financing provision of services will have to be faced then. I respectfully suggest that, ten years hence, the answers to that question, to the extent that they require all Alaskans to contribute more in the way of state income and local property and sales taxes, may come a little easier if the legislature now commits itself to requiring some cash contribution as a required local effort in any foundation approach by which responsibility for essential public services is moved to the regional level.



Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all
correspondence to:

LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Jack Chenoweth
FROM: Marjorie Gorsuch/*MLG*
Gene Walsh
DATE: 8/14/79
RE: Draft Legislation/Local Government Study

Jack....Needless to say, we are pleased that you will continue to be involved in the Local Government Study. We have found your work of invaluable assistance in this effort.

Reiterating the agreements made at our August 8 meeting, we understand that you will be researching specific portions of the Action Program (see attached). The material should be developed in a form suitable for introduction as legislation during the Second Session of the Eleventh Legislature.

During the last week of September and early October, the Committee members will take the concepts embodied in the legislation you are preparing to rural regional centers and villages in the unorganized borough for public hearings. Therefore, it would be most helpful to receive the legislative proposals by September 7 so that they can be reviewed and so that some advance educational material on the subject matter can be made available to those in rural Alaska who will be invited to the public hearings.

Restating the tasks you felt you could complete, we understand that you plan to work on the following:

1. ESTABLISHMENT OF UNORGANIZED BOROUGHs - *informational*
 - A. BOUNDARIES
 1. DELINEATION
 2. FORMALIZATION (ESTABLISHMENT)
 3. FOLLOW-UP ADJUSTMENT BY LOCAL BOUNDARY COMMISSION
 - B. COUNCILS (ADVISORY)
 1. APPORTIONMENT
 2. ELECTION
 - C. FUNCTIONS AND AUTHORITY
 1. PLANNING - *(Council plan - rather planning)*
 2. COORDINATION AND REVIEW
 3. RELATIONSHIP TO REAA's & COASTAL RESOURCE SERVICE AREAS
 - D. STEPS TOWARD ORGANIZED STATUS

(In reference to 1.(B), it would appear from the discussion at the Symposium, that a representation plan which would most closely provide for individual village representation, while still complying with the Supreme Court mandate of "one man one vote" would be acceptable to those living in rural Alaska.)

*League of Cities
could possibly
continue to reach
other than
recognized authority
pseudo-boroughs*

*Home Rule unorganized
boroughs*

Bill Parker

CU

2. HOME RULE/ORGANIZED BOROUGH

A. EXTENDED HOME RULE (provision to move directly from unorganized status)

What is the problem with general law? What problems?
(Relative to the above, please find the attached memo from the Department of Community and Regional Affairs on the "instantaneous unification" proposal as well as the draft proposal on this subject circulated during the First Session of the Eleventh Legislature.)

3. LOCAL GOVERNMENT FINANCING AND SERVICE

B. FOUNDATION PLAN FOR HEALTH, PUBLIC ASSISTANCE, PUBLIC SAFETY, EDUCATION

(The attached letter received from John Havelock on this general subject might be of interest to you)

C. INTERGOVERNMENTAL CONTRACTING

4. B. RECOGNITION OF VILLAGES

1. THIRD CLASS CITIES

(You mentioned that memos relative to the Third Class City written by Pat Poland might be of assistance in this area)

Please advise us if the above is not accurate.

We would appreciate receiving any portion of the work upon completion-- the mail to Anchorage (to Arliss and Bill) seems to be getting slower by the day and we would want them to review the legislative proposals.

Many thanks.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

January 16, 1980

Honorable Arliss Sturgulewski, Chairman
Senate Community & Regional Affairs Committee
and
Honorable Bill Parker, Chairman
House Community & Regional Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Madam and Mr. Chairman:

Your staffs have asked us to comment on the use of the term "unorganized borough" in legislation proposed to divide the state into a number of unorganized boroughs, the boundaries of which would be coterminus with the regional educational attendance areas.

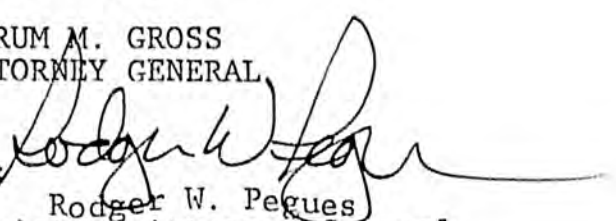
We perceive no legal problems in the use of the term nor in having one unorganized borough or a dozen. We perceive the existence of conceptual problems, that is, there should be no need to use the word "districts" in the proposed new article 2 of AS 44.17 if the term "unorganized borough" is to be used and the unorganized boroughs are to consist of the State's several, diverse regions. Instead, the term "borough" should be used (rather than "district") and it should be defined as an organized borough, a unified municipality, or an unorganized borough.

We also perceive a potential for mischief in the use of the term if the legislature continues to create ad hoc special districts in unorganized boroughs without some mechanism for unification of services, functions, and control. A principal purpose of the constitution's local government article was to avoid a multiplicity of special districts, each with its own governing body, providing uncoordinated, disarticulated local government services. Unorganized boroughs which provide no integrative mechanisms on the local level -- even though they do so on the state level -- are not wholly consistent with that purpose.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By,


Roger W. Pegues
Assistant Attorney General

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1980

JAN 15 1

SUBJECT: Identification of administrative regional units as "unorganized boroughs." (Work Order Nos. 7569, 7570 and 7571)

TO: → Senator Arliss Sturgulewski, Chairman
Senate Community and Regional Affairs Committee

Representative Bill Parker, Chairman
House Community and Regional Affairs Committee

FROM: John B. Chenoweth
Legislative Counsel

The designation of administrative regions as "unorganized boroughs" in the context of these bills is wrong as a matter of legislative drafting and contrary to provisions of the state's constitution. 1+2

As a drafting matter, this Agency has consistently tried to describe single purpose subdivisions of the state's unorganized borough fairly and accurately. Responsibility for schools and for resource planning in the state's coastal zone was transmitted to single-purpose unorganized borough "service areas" consistent with the directive of the constitution and state statute that "service areas" be used to accommodate provision of "special services". While uneasy with adaption of an organized borough mechanism for use in the unorganized borough, at least the choice of nomenclature fairly served to describe what was in the works. The terminology did serve to inform the citizens of the state fairly and fully of the status of the new subdivision. The choice of "unorganized borough" in this bill does not, as a matter of bill drafting, fairly describe the nature of the subdivision or unit that is being established in the accompanying bills. The "unorganized borough" authorized in these bills is clearly a single-purpose entity not characterized (as were earlier "service areas") by regional public participation and direction. These "unorganized boroughs" are confined to assist state planning efforts. "Unorganized borough" is a defective nomenclature that does not accurately identify the result embodied in the legislation.

made not good for an 8

Representative Bill Parker
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January 14, 1980

The Constitution, at Article X, sec. 6, suggests that the term "unorganized borough" be used in conjunction with a scheme by which services are to be performed in areas not within incorporated areas, indicating that the legislature "[allow] for maximum local participation and responsibility." Since "service areas" have been used to describe the devices adopted for "special services" in the unorganized borough, and since the principal bill of the three accompanying this memo does not address "local participation and responsibility" for a function or service, use of the term "unorganized borough" -- which at least implies a delivery of multiple services with local participation and responsibility -- to describe an entity the sole purpose of which is to redirect the nature of state agency efforts is inconsistent with applicable constitutional directive.

The choice of terms in this regard is not insignificant. Fulfillment of the constitutional directive with respect to formation of unorganized boroughs -- "maximum local participation and responsibility" -- suggests to me that the three bills as presented are incomplete: the unorganized borough bill should also make provision for accommodation of existing services which involve local participation and responsibility, and, accordingly, should include transitional provisions by which the current service area responsibilities for single purpose subjects (i.e. education and coastal management planning) are folded into these new "unorganized boroughs." Your selection of the term "unorganized borough" almost certainly requires that, if adopted, the continued use of "service areas" of the unorganized borough as the structure to transfer responsibility for a service from a state agency to an entire region is no longer appropriate; hereinafter, bills drafted making such a transfer must make use of these new "unorganized boroughs."

JBC:ljb

Enclosures

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1980

SUBJECT: Alteration of Work Orders Nos. 7656 and 7657
relating to unorganized boroughs.

TO: Representative Bill Parker

FROM: John B. Chenoweth
Legislative Counsel 

In response to Margo Waring's memo --

Item 1:

Work Order No. 7657: Page 1, following line 20: Insert
*Sec. 2 to read:

*Sec. 2. INTENT. In providing for the division of the state's unorganized borough into unorganized boroughs, it is the intent of the legislature that all future transfers of functions or services from state agencies to regions within unincorporated areas be made only within the appropriate boundaries for unorganized boroughs established under AS 29.03.011 - 29.03.021, added by section 3 of this Act.

Item 4 is covered by AS 29.03.021.

Item 6: The previous language, precluding subdivision of areas within REAA's into smaller unorganized boroughs, read:

"Sec. . . . COMBINING OF SERVICE AREAS TO ESTABLISH UNORGANIZED BOROUGHs. The commissioner may, after public hearings in the areas affected, constitute the geographic area within two or more regional educational attendance areas as a single unorganized borough. . . ."

The provision was modified to the language you have in the bill (Work Order No. 7657) in response to Marge's December 8th memo and verbal clarification of some of the points in that memo.

* * *

Representative Bill Parker
Page 2
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Item 5:

Work Order No. 7656: Page 2, following line 14, insert new paragraph "(2)" to read:

(2) require that if the report does not favor incorporation of a borough, the report include an analysis and recommendations concerning a representative advisory body for the unorganized borough and an analysis and recommendations defining the relationship between that body and

(A) the school board for the regional educational attendance area;

(B) the coastal resource service area board, if one has been established under AS 46.40.110 - 46.-40.160;

(C) any other regional entity responsible for services; and

(D) the governments of cities located within that unorganized borough.

* * *

Item 2 of Margo's memo is, I think, answered by the suggested language prepared in response to item 5 in that these regional strategy contracts may not run longer than 3 - 4 years.

Item 3 in that memo was not to be acted on.

JBC:ljb

CONFIDENTIAL

TO ARLISS
FR MARGO
RE UNORGANIZED BORO BILLS

I discussed Jack's memo with him today (1/17/80). Basically, he objects because the bill does not address the 2 following problems 1) absense of a tax base
2) future relationship between the "boro" and the special service districts .

Jack made several suggestions to improve the bill:

1. A new section 101 which would state the intent that there will be a regional response to service delivery and planning and that there will be no new regional subdivision or separate single purpose service area to be used hereafter. ✓
2. A provision in the bill that X years from ~~date~~ effective date, the legislature will be advised regarding the relationship between the unorganized boros , the REAAs ,and the CRSBs. *CRA* ✓
3. Place the regional strategy bill within this bill. ✓
4. Make sure that the establishment criteria for the unorganized boros reflect the constitutional standards (either Art.X language or the REAA language), REAAs, Regional Corporate boundaries, and the boundaries of crsds. ✓
5. In the regional strategy section, regarding the scope of the study, say that if it appears that unorganized boro status is all that is feasible, the study will address and discuss the relationship of the unorganized boro to the REAAs and the CRSDs. ✓
6. Change the language back to "an unorganized boro consists of one or more REAAs". ✓

My discussion indicated that these changes would strengthen the bill and meet some of the problems seen in it.

*Arliss -
read before
telecom meeting
today*

Sen. Arliss Sturgulewski

Rep. Bill Parker

January 15, 1980

to Arliss S. and Bill P, CRA committees

from Vic Fischer

re Jack Chenoweth's 1/14/80 comments on "unorganized borough" nomenclature

Jack takes the position that use of 'unorganized borough' in proposed bills is wrong from standpoint of legislative drafting and contrary to provisions of state constitution.

I defer to Jack with respect to legislative drafting.

However, I cannot accept Jack's position regarding what the constitutional provisions would require.

Jack's argument revolves around section 6, Article X provision of services in the unorganized borough with maximum local participation and responsibility. To deal with this matter, however, one has to look at section 3 as well as 6, plus keep in mind what the constitutional intent was as set forth quite clearly in the convention record.

The key to the issue is sec. 3: it provides that the entire state be subdivided into boroughs. Whether organized or unorganized, they are to meet criteria of population, geography, economy, transportation, etc. Each borough - unorganized as well as organized -- shall embrace an area and population with common interests.

note
The problem today is that the existing unorganized borough is patently illegal under the constitution. It does not meet the criteria or standards set forth in ~~unorganized~~ section 3 for both organized and unorganized boroughs.

agree
The constitution and the constitutional record are very clear that the intent was to divide the entire state into regions, using standards currently being applied to organized boroughs only. The intent always was to have regional units that would be able to move from totally unorganized status to whatever degree of organization might be appropriate.

good
Unlike Jack, I don't believe that sec. 6 "suggests" that the term unorganized borough be used in conjunction with service schemes entailing maximum local involvement. Note that sec 6 states: "The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs," then adding "allowing for maximum local participation and responsibility." ~~Make~~ The proviso is not the other way around: It does not say that only where local participation is provided can the state provide services. Thus, the state is to provide services it decides upon, with whatever local participation is appropriate. The principal purpose of the and proviso is to make sure that local participation be provided to maximum extent possible. And I think that the regional strategy planning provisions lay the basis for truly major local participation in all services being provided by the state in the particular region.

Note also that the first sentence of sec. 6 refers to "unorganized boroughs", using the plural -- another indication that the regional concept is basic to article X and that the present single unorganized borough is counter to both constitutional language and intent.

Thus I agree with Jack fully that the choice of terms is not insignificant. It's just that we end up on opposite sides!

The designation of regional unorganized borough would, in my opinion, carry out the mandate of the constitution. Maybe a bit late, but not too late. I do believe it should be handled now, without perpetuating an illegality and incongruity that was perpetrated twenty years ago. (By the way, this whole matter is discussed in greater detail in our draft/unpublished study on regional government in Alaska.)

I do not think that establishing unorganized boroughs would create any problem whatsoever with service areas, REEAs or CMSAs. Some appropriate language can assure that their status is preserved. In doing so, the legislature would simply be exercising its authority and jurisdiction under sec. 6. The process of folding existing service areas need be no more complex than legislative action long ago providing that independent school districts be part of organized boroughs. Since unorganized boroughs would not, under proposed legislation, have their own governing body or facsimile thereof, the relationship between the service areas and state government need not change in any way whatsoever.

OK?

Pls give copy to Jack C. before our conference call



*See Jack's letter to
need to see
how REEA's
CMSA's relate
to law to
unorg borough*

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

RECEIVED

APR 25 1979

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

7,8,9,10,11,12,1,2,3,4,5,6 PM

THIRD JUDICIAL DISTRICT

CITY OF KODIAK,

Plaintiff,

vs.

KODIAK ISLAND BOROUGH and
BETTY WALLIN, Mayor of
KODIAK ISLAND BOROUGH,

Defendants.

RECEIVED

APR 27 1979

Alaska Office
Keane, Harper, Pearlman
and Copeland

Case No. 3KO-78-120 Civ

MEMORANDUM OF DECISION

The "Complaint for Declaratory Judgment and Injunction" filed by plaintiff City of Kodiak prays for equitable relief, including an injunction prohibiting the Kodiak Island Borough from operating Service District No. 1. Plaintiff further seeks a declaration that the Borough's establishment of Service District No. 1 was illegal. This action is based upon plaintiff's contention that the Borough's establishment of the Service District is contrary to Article X, Section 5 of the Alaska Constitution and AS 29.63.090(d) since the City of Kodiak, which lies contiguous to the Service District, has the legal capability to tax and provide municipal services of sewer, sewage treatment, water and roads. Further, plaintiffs assert that the Service District is unlawful under Article X, Section 1 of the Alaska Constitution as it creates another taxing entity.

On February 7, 1979 this court heard oral argument on plaintiff, City of Kodiak's Motion for Summary Judgment and defendant, Kodiak Island Borough's Cross-Motion for Partial Judgment on the Pleadings. After reviewing the pleadings, the memoranda submitted, and the arguments of counsel; and being fully advised, the court enters this, its Memorandum of Decision.

A BOROUGH IS NOT PROHIBITED AS A MATTER OF LAW FROM ESTABLISHING A SERVICE DISTRICT SIMPLY BECAUSE IT CAN BE ANNEXED BY A CITY THAT CAN PROVIDE THE SERVICE.

Plaintiff's Complaint and Motion for Summary Judgment are premised upon the following contentions:

The establishment of the Service District is unlawful under AS 29.63.090(d) and unconstitutional under Section 5, Article X, Alaska Constitution in that the roads, sewer and water service function and power can be provided by the City of Kodiak through annexation to the City, without any necessity for the creation of the Service District. Complaint, paragraph 15, p. 3.¹/₁

Thus, as a basis for its Complaint and Motion for Summary Judgment, the plaintiff is maintaining that, as a matter of law, the existence of the City of Kodiak with the legal capacity to provide sewer, water and road services prohibits the Borough from forming a service district to provide such services.

Plaintiff's construction of Section 5, Article X and AS 29.63.090(d) as literal and absolute directives to this court would have the consequence of prohibiting any new service area from ever being established anywhere in Alaska, as every borough in Alaska contains at least one city which, in a literal

¹Section 5, Article X, Alaska Constitution provides in pertinent part:

"Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, a new service can be provided by an existing service area, by incorporation as a city, or annexation to a city."

AS 29.63.090(d) provides in pertinent part:

(d) A new service area may not be established if, consistent with the purposes of Article X of the State Constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

sense, could provide a service in the borough if the rest of the borough were annexed to it. Plaintiff's construction would enable cities to force annexation upon areas which do not want to be annexed and which only need and desire a limited number of services that could be provided more effectively and economically by a service district.

Even if a purely rural borough with no existing cities were established, it is difficult to imagine an area where the need for services would arise in which the population was not large enough to provide the legal basis for a second class city. This, under plaintiff's construction, would activate the statutory prohibition against establishment of a service district where the service "can be provided . . . by incorporation as a city". Such a legalistic interpretation of Alaska's constitutional and statutory provisions could not have been intended, and no court should find the law to be so literal in its requirements. Certainly the language of both the constitutional and statutory provisions to be considered in this case is ambiguous and is, of necessity, subject to construction as to the intention of the framers. ^{2/}

A. Constitutional Framers' Intent

(1) Drafting of Section 5 of Article X of the Constitution.

The first public draft of Section 5, Article X of the Alaska Constitution, referred to as Proposal No. 6, was never considered and voted upon by the constitutional convention. Instead, the Local Government Committee which drafted the proposal simply introduced it to the convention and then recalled it prior to debate or vote.

²In addition to other ambiguous language contained in the pertinent constitutional and statutory provisions, the words "can be provided by . . ." necessitates construction and ascertainment of the framers' intent. For example, it is unclear as to what is meant by those words, how it is to be determined whether the requirement is satisfied, and who is to make that determination. The words "consistent with the purposes of Article X" also are in need of judicial construction.

Proposal No. 6/a³ was the first draft actually considered and voted upon by the Constitutional Convention. Proposal No. 6/a was the subject of extensive debate at the Convention (see e.g. pages 2610-2730 of Constitutional Minutes). It was this proposal that was voted upon by the Convention, adopted and enrolled.

Proposal No. 6/a as adopted was sent to the Style and Drafting Committee. Under the applicable Constitution Convention Rules, the Style and Drafting Committee had no authority to make substantive changes to Proposal No. 6/a. See Rule 16c of the Permanent Rules, Constitutional Convention of Alaska.⁴ The Style and Drafting Committee authored the final version of Section 5, Article X and delivered it to the convention for consideration. At no time during the Convention's consideration of the Style and Drafting Committee's draft was it either stated or suggested that a substantive change had been made to the provisions of Proposal No. 6/a as adopted by the Convention. Thus, under the rules applicable to the Convention, Section 5, Article X was to have a substantively equivalent meaning to original Proposal No. 6/a. Proposal No. 6/a expressly provided that "the judgment of the

³Proposal No. 6/a reads in pertinent part as follows:

"Section 6. Service areas to provide special services within portions of an organized borough may be established, altered or abolished by the assembly, subject to the provisions of law. The assembly may authorize levying such taxes, charges or assessments within any service area as may be necessary to finance the activities. No new service area shall be created when, in the judgment of the assembly, the objectives of Section 1 of this article would be better served by giving a new function to an existing service area, incorporation of the area as a city, or annexation of the area to a city. (emphasis added)

⁴Rule 16(c) provides in pertinent part:

"The committee on Style and Drafting . . . shall have the authority to rephrase or to regroup proposed language or sections of the proposed constitution but shall have no authority to change the sense or purpose of any proposal referred to it."

assembly" is to determine whether new or additional services can be provided better by a new service area, by annexation to a city, by an existing service area, or by incorporation as a new city. Section 5, Article X must be construed to have the same meaning.

(2) Framers' Intent as Revealed in
Constitutional Minutes

The Constitutional Minutes are most helpful in understanding the framers' intent as to the meaning of Section 5, Article X.

In particular, the testimony of Delegate Taylor is enlightening. The following is an extremely relevant portion of Mr. Taylor's testimony:

"Now there is no forced annexation in this matter as I can see it, so there is a wide choice. They can be either a service district or those functions can be performed by an already existing service area. They can incorporate as a city or they can be annexed to a city. It is up to the body in which they are represented. It is the American way of doing things that the body decides, that it be for the best interests of this area. The body can decide that it would be possibly to the financial betterment of the people in that area if they did incorporate another service district or if they incorporated as a city. So, I think it should be left in here so that the body, the assembly, could meet and consider all factors and recommend as to whether they could organize as a service district or whether they could secure the same service from an adjacent service district or whether they could incorporate as a city or whether they could be annexed to a city that is already incorporated. It is a wide latitude that they are given and I think that in an assembly in which they are represented and are a part of that body, I think they would receive proper consideration. [emphasis added]." pp. 2716-17, Constitutional Minutes.

The consensus behind the views expressed by Delegate Taylor is confirmed by testimony of other delegates which can be found at pages 2712 - 17 of the Constitutional Minutes.

Clearly, the Constitutional Minutes reflect that the framers intended that cities were not to be permitted to prevent the borough's establishment of a service district by forcing or threatening annexation.

THE SERVICE DISTRICT DOES NOT CREATE A DUPLICATION OF TAX-LEVYING JURISDICTIONS IN VIOLATION OF ARTICLE X, SECTION 1 OF THE ALASKA CONSTITUTION.

Paragraph 17 of plaintiff's Complaint asserts that the Service District is unlawful under Article X, Section 1 of the Alaska Constitution as it creates another taxing entity. This contention is without merit because the establishment of new service areas by the Borough does not create new tax-levying jurisdictions.

Under both the relevant constitutional and statutory provisions,⁵ the tax-levying authority for new service districts is retained and exercised solely by the Borough. No new local government unit has been established with authority to exercise local government power at the policy level. Even where administrative functions are delegated by the Borough to a service district, the Borough nevertheless has full control over those functions.

The Constitutional Minutes reflect that the concern of the Delegates was to avoid a multiplicity of independent tax-levying jurisdictions, such as would have been the case had such entities as school districts been given tax-levying authority independent of cities and boroughs.⁶ The delegates foreclosed

⁵Article X, Section 5 provides in part:

"The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance special services. [emphasis added]."

AS 29.63.090(b) provides:

The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services. [emphasis added]

⁶See, e.g., comments of Delegate Taylor, Constitutional Minutes pp. 2699-2700. Also see Constitutional Minutes, p. 2630.

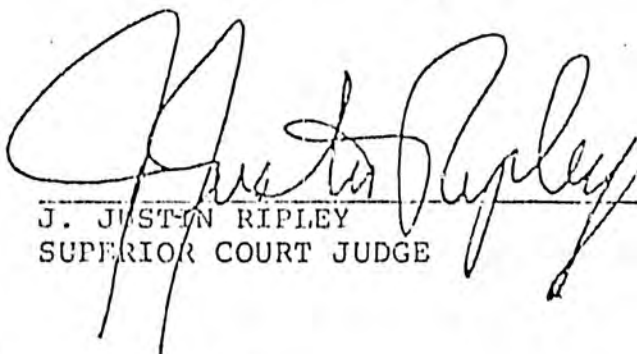
the problem by granting local tax-levying authority to only two bodies, cities and boroughs (See Alaska Constitution Article X, Section 2), and by permitting the establishment of service districts only under the control and auspices of boroughs. See Article X, Section 5 and AS 29.63.090. The fact that the framers of the Alaska Constitution authorized the establishment of service districts rebuts the suggestion that they viewed the creation of such districts as the creation of new tax-levying jurisdictions.

CONCLUSION

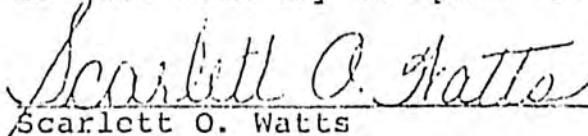
Since plaintiff's interpretation of the relevant constitutional and statutory provisions is incorrect, not only must its Motion for Summary Judgment fail, but also its Complaint must be dismissed because of the failure of plaintiff to state a viable cause of action against defendants.

IT IS ORDERED that defendant's Motion for Partial Judgment on the Pleadings is granted and plaintiff's Complaint is dismissed with prejudice.

DATED at Anchorage, Alaska this 19th day of April 1979.


J. JUSTIN RIPLEY
SUPERIOR COURT JUDGE

I certify that I mailed copies of the foregoing document to Mr. Donald M. Johnson and Mr. James Crane at their address of record on this 20th day of April 1979.


Scarlett O. Watts

LSA
testimony

Senator Sturgulewski

Liza, why don't you go ahead with your testimony and we'll do a little quick checking on it. That issue was raised and frankly just yesterday, and I haven't had time to research it, so if you'll continue on, I'll check and get back on that.

Liza, I'll raise some questions, but I don't expect

Liza Rudd- I'll raise some questions, but I don't expect answers because I know you've got lots of people and I just raise them so that you will aware and if you think they are worth looking into, then you go ahead, but I don't expect any answers to these questions. On Line 19 & 20 - SB 348 - the encouraging of the development of regional responsibilities of planning and implementation of these services, that seems to me to be ... for what you are really saying which is providing for these corporations of home rule boroughs by unorganized boroughs. And, I think if that's what you are really talking about, and it certainly is according to the title of your bill, then that's what you should say and in fact you should probably put it first rather than last under the pertinent section. On page 3, SB 348, Line 17, Sec. B, boundaries may be modified by the Legislature, the last sentence there the agency requesting modification of the boundaries shall submit to the Legislative Council - I wonder how this relates to the responsibilities of DPDP on the outline of SB 350, and whether or not this provision, in this bill might not be looked at as pat? by the Governor's Office. I wonder if the Governor's Office might not want agencies independently going to the Legislative Council and asking for suggested boundaries.

Sen. Sturgulewski. The answer is right. That issue has been raised and it will be addressed.

Lize Rudd - O.K. maybe I should just shut up. I think everybody's .., or has already thought of. ~~On page 5, (C), I'm wondering why you only~~

42 - already thought of. On page 5, (C), I'm wondering why you only provide for one shot at a charter, instead of two, as other boroughs have. You know, when we unified here, in Anchorage, each charter commission got a chance to write the charter once and then if defeated, write it again; and that's not provided under this method of incorporation, and maybe you've thought why, but I was just wondering why. On page 6, line 16, (B?) the word substantially, I don't know if that's usual, but it seems to me that the Lt. Governor should provide the elections in the manner provided in the election code, rather than substantially in ON line 26 there, the repealers, these 2 repealers refer to the powers of home rule boroughs and general .. municipalities, and I understand the reason for repealing it, but I think you still need it on, do you not the statement that a home rule municipality can perform any functions not forbidden by State law, and you also need a state law that says general long? municipality purposes provides purposes, provided under state law, and if you repeal those 2 sections without reinstating those statements, I think something is missing in the law. SB 349 - it seems to me again there is a mutual fear ? that maybe this Act should be named something like the assistant to the study of the feasibility of borough incorporation, rather than talking about planning assistance, because the minute I got down to the section dealing with regional management programs, I asked myself the question, who will manage what? It doesn't say. It just says for the purpose of preparing the management program for an unorganized borough, and it doesn't say who is going to manage it, or what they are going to manage, and so on. If you are talking about ^{Managing} adding the delivery of state services in the unorganized borough, that should be .. but it seems that is not what you are talking about, because when you get over later, you are talking about this contract, the only thing required of the contract, is the analysis and recommendation concerning the incorporation of a borough government. So that seems to be the real purpose of this bill, is to provide for assistance to groups in order to plan for the incorporation of a borough, and I think that should be

straight forwardly stated. Page 3, the provision under (H), that no more than \$25,000 per year, plus \$25 per capita .. under contract, I don't understand the reason for the limitation there. On SB 350, I have no particular comments. SB 351, I'm glad to see that - that's an idea that's been around the Legislature. As I recall, we added it to the revenue sharing bill ... Legislature that. So am on to that idea. The fiscal note bill - no comments - it seems like a very good idea. SB 353, an act relating, pretty straight forward and goes along with all the rest, SB 354 - it seems to me on page 2, Section 6, provides - if Jack

Chenoweth is

Chenoweth.

Chenoweth is there, he'll recognize my concern with the division of planning ... unorganized borough, I don't like the idea of ... It seems to me it provides disincentive to the incorporation of boroughs, as the Division of Lands provides that service anyway. So, I have that problem. I have always wanted to take ... In addition, I have a question as to whether or not this power by the Division of Lands, how it relates to the management plan that is going to be developed, and would it not be better if the Dept. C/RA involve managing and planning in the unorganized borough. Would it not be better, if any state agency must do planning and zoning, platting in the unorganized boroughs, should it not be done by the Dept. of C/RA, since they are going to be taking on, under your bill, some rather other heavy planning responsibilities in the unorganized borough. And the same goes for the planning and zoning powers that belongs to the Division of Lands. On the last page, 4, under repealers, section 29.080.040 J - relates to other 1st and 2nd class boroughs also, so possibly you shouldn't repeal it completely, I don't remember that section just now, so I don't recall my question, but I felt as though an outright repealer would do away with the provision that should be And while I was looking at the repealers, I noticed that in 38.050. 378 that you might want to include in these bills. And these are my comments on the specific bills. They seem to address some concerns. My