

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
736 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

29.28 ELECTIONS

29.30, 255 ^{son} (new section)
4.260 → .280

Sec. 29.28.170 Protest. (NEW SECTION)

(same as protest provisions for initiative and referendum)

If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest with the municipal executive within seven days after the certification and the municipal executive shall present the protest at the next regular meeting of the assembly or council, which shall hear and decide the protest.

SEc. 29.28.180 New Petition

Unchanged.

Sec. 29.28.180. New petition. Failure to secure sufficient signatures does not preclude the filing of a new recall petition. However, a new petition may not be filed sooner than six months after a petition is rejected. (§ 2 ch 118 SLA 1972)

Sec. 29.28.190 Submission.

If a recall petition is sufficient, the clerk shall [IMMEDIATELY] submit it to the assembly or council at its next regular meeting.

Sec. 29.28.200 Recall election

(a) If a regular election occurs within 75 days of submission of a sufficient petition, the assembly or council shall submit the recall at that election.

(b) If no regular election will occur within 75 days, the assembly or council shall hold a special election within 75 days of submission.

(c) If a vacancy occurs in the office after a recall petition is filed, the petition shall not be submitted to the voters and such vacancy is filled as a vacancy caused by any other reason is filled. The resigning official who was the subject of the recall petition shall not be eligible for appointment to the vacant position.

should
this be
separate
section?

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Sec. 29.28.210 Form of recall ballots

Unchanged

Sec. 29.28.210. Form of recall ballots. A recall ballot contains:

- (1) the grounds as stated in the recall petition;
- (2) the officer's statement of 200 words or less, if the statement is filed with the clerk for publication and public inspection within 20 days before the election;
- (3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [] No []". (§ 2 ch 118 SLA 1972)

Sec. 29.28.220 Election procedure

Unchanged

Sec. 29.28.220. Election procedure. Procedures for conducting a recall election are those of a regular election. (§ 2 ch 118 SLA 1972)

Sec. 29.28.230. Majority *election required*

Unchanged

Sec. 29.28.230. Majority required. A majority vote on the question is required to recall an officer. (§ 2 ch 118 SLA 1972)

Sec. 29.28.240. Effect

Unchanged

Sec. 29.28.240. Effect. If an incumbent is not recalled at the recall election, a petition to recall the same incumbent may not be filed sooner than six months after the recall election. (§ 2 ch 118 SLA 1972)

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Sec. 29.28.245 Certification of election results (NEW SECTION)

If a majority of the votes cast on the question of recall favor the removal of the official, the assembly or council shall so certify and the office becomes vacant the day following certification.

Sec. 29.28.250 Election or appointment of Successor

(a) If the voters recall an officer, the remaining council or assembly members shall appoint a successor to serve until an election shall be held.

The clerk shall conduct an election for a successor to fill the unexpired term of the recalled official, which election shall be held at least 10 but not more than 45 days from the date of the recall election. However, if a regular or special election occurs within 75 days of the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section.

(b) If the voters recall a number of officials which has the effect of leaving the legislative body with less than a quorum, the remaining council or assembly members shall have the emergency power to appoint successors to serve until an election shall be held.

(c) If the voters recall an entire legislative body, the executive officer?
shall have the power to appoint successors to serve until an election shall be held.

(d) If no candidates file to have their names placed on the ballot to replace the recalled officer, the remaining council or assembly members shall appoint a successor to serve for the unexpired term of the recalled official. If an entire legislative body has been recalled and no candidates

29.28 ELECTIONS

29.28.250 cont'd

file for the vacancies, the ^{executive?}
officer, shall have the power to appoint
successors to serve for the unexpired terms of the recalled officials.

(e) All appointed successors shall have the qualifications and meet
the requirements established for election to the position to which appointed
and shall not be one of the officials recalled.

It's difficult to address all the "what ifs"; I'm sure I missed some!

Article 1. Special Assessments

Section

- 10. Assessment and proposal
- 15. Procedure
- 20. Decision and notice
- 25. Record owner
- 30. Objections and revision
- 40. Assessment roll
- 50. Hearing and settlement

Section

- 60. Payment
- 65. Exemption
- 70. Reassessment
- 75. Allowable costs
- 80. Objection and appeal
- 83. Interim financing
- 85. Special assessment bonds

SEC. 29.63.010. ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of acquiring, installing, making or constructing (OR IMPROVING) capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under § 15(a)(8) of this chapter. If a governmental unit other than the state benefited by an improvement (ASSESSMENT) refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

- (1) petition to the assembly or council of the owners of one-half in value of the property to be benefited or
- (2) the assembly or council.

SEC. 29.63.015. PROCEDURE. (a) The assembly or council may prescribe by ordinance the complete procedure relating to creating special assessment districts, making local improvements, levying and collecting assessments and financing of the improvements (SPECIAL ASSESSMENT PROCEDURE FOR LOCAL IMPROVEMENTS), including and subject to the following:

- (1) a (THE) procedure for filing petitions;
- (2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;
- (3) a public hearing on the necessity for the local improvement;
- (4) a resolution or ordinance of the assembly or council determining to proceed or not to proceed with the proposed local improvement;

(5) a public hearing by the assembly or council on the special assessment roll for the local improvement;

(6) published notice of each public hearing required by this section and mailing notice to each (LEGAL OWNER OF) record owner of real property within the special assessment district;

(7) a resolution or ordinance confirming the special assessment roll for the local improvement;

(8) if protests as to the necessity of a local improvement are made by owners of property which will bear 50 per cent or more of the estimated cost of the improvement, the assembly or council may not proceed with the improvement until the objections have been reduced to less than 50 per cent, except upon approval of not fewer than three-fourth of the assembly or council.

(b) To the extent that (IF) the assembly or council does not prescribe a procedure for special assessments as permitted by this section, the assembly or council shall comply with the special assessment procedures set out in §§ 20-70 of this chapter.

SEC. 29.63.020. Creation of District (DECISION AND NOTICE). (a) When an improvement proposal has been filed with the municipal clerk and presented to the assembly or council, the assembly or council shall find by resolution or ordinance whether (1) the improvement requested (REQUEST) is necessary and should be made, and (2) if by petition, the request has sufficient and proper petitioners. The findings of the assembly or council are conclusive.

(b) If the assembly or council approves (PASSES A RESOLUTION APPROVING) an improvement proposal with the necessary findings, it shall develop a proposed improvement plan including the cost estimate and the percentage of the improvement plan cost to be assessed against the property benefited. This plan is to be filed with the municipal clerk.

(c) The assembly or council shall set a time for public hearing on and the period for filing objections to the improvement plan. The assembly or council shall publish a notice of

the hearing and of the period during which objections may be filed at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

SEC. 29.63.025. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment roll may designate (BE MADE AGAINST) "unknown owner."

SEC. 29.63.030. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed during a period of not less than 30 (NOR MORE THAN 60) days (AFTER PUBLICATION OF NOTICE ON A DATE) specified by the assembly or council. The assembly or council may by resolution or ordinance approve the plan and order (PROCEED WITH) the improvement subject to the limitation of (b) of this section (IF THE OWNERS OF ONE-HALF IN VALUE OF THE PROPERTY TO BE BENEFITED DO NOT OBJECT IN WRITING).

(b) If objections are made in writing during the period set for objections by the owners of property bearing one-half of the estimated cost of the improvement, the assembly or council may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 per cent. A revised plan shall be approved and adopted as an original plan in accordance with (b) and (c) of this chapter.

SEC. 29.63.040. ASSESSMENT ROLL. (a) At any time after project approval, the assembly or council shall assess the authorized percentage of the cost against property within the district (TRACTS) in proportion to benefit received. (ASSESSMENTS MAY NOT EXCEED ACTUAL COSTS.)

(b) The special assessment roll shall contain (CONTAINS) property descriptions, names of record owners (OF RECORD) and assessment amounts.

(c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than 15 days before the hearing.

SEC. 29.63.050. HEARING AND SETTLEMENT. After the public hearing, the assembly or council shall correct errors and any inequalities in the roll, provided that, if any assessment is raised, a new hearing shall be set and notice mailed as for the original assessment roll and further provided that objections shall be limited to record owners of property on which the assessment was raised. When the roll is corrected, it shall be confirmed by resolution or ordinance of the assembly or council. (THE CLERK SHALL SO CERTIFY.)

SEC. 29.63.060. PAYMENT. (a) The assembly or council shall fix times of payment, rate of interest on the unpaid balance of the assessment, and if possible in installments penalties and interest on (DELINQUENCY OF) delinquent payments. PAYMENT MAY NOT BE REQUIRED SOONER THAN 60 DAYS AFTER ASSESSMENT. Payment may be in one sum or by installments, but the total assessment (A SUM OR INSTALLMENT) may not exceed 25 per cent of the assessed value of the property affected. If payment is to be in one sum, payment may not be required sooner than 60 days after mailing of the assessment statement. If payment is to be by installment, the entire assessment may be prepaid without interest or penalty within 30 days after mailing of the assessment statement; and thereafter may be prepaid in whole or in part with interest to the next installment payment date. Penalty and interest on delinquent payments are the same as for real property taxes and are in addition to interest on the unpaid balance of the assessment if payable in installments.

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property,

the assessment amount, method of payment, rate of interest on the unpaid balance of the assessment if payable in installments, the time of delinquency, and penalties on delinquent payments.

(c) Within five days after the statements are mailed, the clerk shall publish notice that the statements have been mailed.

(d) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.53.200 - 29.53.390 for enforcement of property tax liens.

SEC. 29.63.065. EXEMPTION. (a) The real property owned and occupied by a resident 65 years of age or over, or the spouse, widow, widower, or minor heir of the original applicant, on which is located only his permanent abode which is a single-family residence, is exempt from (1) special sewer assessments levied by a home rule or general law municipality after September 2, 1975 and (2) special water assessments levied by a home rule or general law municipality after September 2, 1975. Only one exemption may be granted with respect to the same property, and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the municipality determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the municipality is appealable under AS 44.62.560 - 44.62.570.

(b) No exemption may be granted under this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors and in accordance with the following requirements:

(1) the claimant must file the initial application during the period of time between the date the assessment roll is confirmed (CERTIFIED) and the time of payment fixed by the assembly

or council. Within one year of the date the assessment roll is confirmed (CERTIFIED) the assembly or council for good cause shown may waive the claimant's failure to make timely initial application for the exemption and authorize the assessor to accept the application as if timely filed.

(2) a claimant receiving the exemption must file with the department by March 15 of each subsequent year a separate application proving eligibility as of January 1 in order to retain the exemption. Within the same year the department for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

(3) if an application is filed within the required time under this subsection and is approved by the assembly or council, the exemption shall be allowed in accordance with the provisions of this section. If a waiver under this subsection is granted and the application for exemption approved, the amount of any assessment, penalty or interest which the claimant may have already paid on the assessment shall be refunded to him. The municipality may at any time require proof in the form considered necessary of the right and amount of an exemption claimed under this section.

(c) The state shall reimburse a home rule or general law municipality for the sewer and water assessment revenues which it would receive but for the operation of this section. Reimbursement under this subsection is a lien in favor of the state against the property exempted to the extent of the assessment against the property exempted. Upon recordation in the recording office of the district in which the property exempted is located the lien is prior and superior to other liens against the property except for general taxes or other special assessments and may be enforced by lien foreclosure as provided in AS 34.10.070 - 34.10.220. The lien becomes immediately due and payable

(1) upon sale or other transfer of the property except to a spouse, widow, widower, or minor heir; however, if the property

is transferred to a minor heir the lien becomes due and payable on the date the minor heir reaches the age of 25 years; or

(2) when property exempted under (a)(1) or (2) of this section receives more than one sewer connection or more than one water connection; or

(3) when the claimant fails to prove eligibility under (b)(2) of this section.

(d) In this section

(1) "resident" means a person who for 12 consecutive months has maintained his permanent place of abode in the state;

(2) "real property" includes, but is not limited to, mobile homes, whether classified as real or personal property for municipal tax purposes.

(3) "minor heir" means a person who, at the time of transfer of the property, has not attained the age of 19 years or who, if he has not attained the age of 22 years, is a full-time student at an educational institution or a member of the armed forces of the United States.

SEC. 29.63.070. REASSESSMENT. (a) The assembly or council shall within one year correct any deficiency in a special assessment found by a court.

(b) Notice and hearing must conform to the initial assessment procedures.

(c) Payments on the initial assessment are credited to the property upon reassessment.

(d) The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure.

SEC. 29.63.075. ALLOWABLE COSTS. Whenever special assessment district is created, there shall be included in the cost and expense of the district.

(1) all of the cost of making the local improvement;

(2) the costs and expenses of all engineering and surveying necessary to be done in connection with creating the district or with the improvement;

(3) the cost of all advertising, mailing, and publishing of all notices;

(4) interest on interim financing;

(5) the cost of legal services and any other expenses incurred for district or in the formation of the district, or in connection with making the improvement and in the financing the improvement, including the issuance of any bonds;

(6) the total amount of the assessment roll may not exceed actual costs but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of any bonds.

SEC. 29.63.080. OBJECTION AND APPEAL. (a) The regularity or validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

(b) The decision of the assembly or council upon an objection may be appealed to the superior court within 30 days of the date of confirmation of the assessment roll.

(c) If no objection is filed or an appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects.

SEC. 29.63.083. INTERIM FINANCING. (a) The assembly or council may provide by resolution or ordinance for the issuance of warrants in payment of the costs and expenses of any local improvement project, payable out of the special assessments for such improvement. The warrants shall bear interest at a rate or rates as authorized by the resolution or ordinance and shall be redeemed either in cash or by bonds for the same project.

(b) All warrants issued against any assessments shall be claims and liens against those assessments prior and superior to any right, lien or claim of any surety upon the bond given to the borough or city by or for the contract to secure the performance of its contract or to secure the payment of persons

who have performed work thereon, furnished materials therefor, or furnished provisions and supplies for the carrying on of the work.

(c) The municipal treasurer may accept warrants against special assessments upon conditions as the assembly or council may prescribe in payment of

(1) assessments against which the warrants were issued in due order of priority;

(2) judgments rendered against property owners who have become delinquent in the payment of such assessments; and

(3) certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay the assessments.

SEC. 29.63.085. SPECIAL ASSESSMENT BONDS. (a) The assembly or council may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefited may be pledged by the assembly or council to secure a payment.

(b) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

(c) Before the assembly or council may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received

from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. (INTEREST ON THE GUARANTEE FUNDS SHALL BE A COST OF THE IMPROVEMENT DISTRICT.)

CHAPTER 58. MUNICIPAL DEBT.

ARTICLE

1. Revenue Anticipation Notes (§§ 29.58.010--29.58.060)
2. Bond Anticipation Notes (§§ 29.58.070--29.58.140)
3. General Obligation Bonds (§§ 29.58.150--29.58.180)
4. Revenue Bonds (§§ 29.58.200--29.58.230)
5. Refunding Bonds (§§ 29.58.240--29.58.280)
6. Miscellaneous Provisions (§§ 29.58.300--29.58.350)

ARTICLE 1. REVENUE ANTICIPATION NOTES.

SECTION

SECTION

- | | |
|---|--|
| 10. Borrowing in anticipation
of revenue | 40. Issuance of notes in
anticipation of state,
federal grants |
| 20. Issuance of notes | 50. Priority of repayment |
| 30. [REPEALED] | 60. Sale of notes |

SEC. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year but all debt so contracted shall be paid before the end of the next fiscal year. Revenue anticipation notes may be issued as evidence of the borrowing.

SEC. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale.

SEC. 29.58.030. LIMITATION ON ISSUANCE OF NOTES. The aggregate amount of revenue anticipation notes at any time outstanding may not exceed 50 percent of the amount of revenues estimated to be collected in the fiscal year in which the notes are issued, less the amount of estimated revenues actually collected in the fiscal year before the issuance of the notes.

SEC. 29.58.040. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. The notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

SEC. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on the revenue anticipation notes shall be payable from revenues, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them.

SEC. 29.58.060. SALE OF NOTES. The municipality may sell revenue anticipation notes in the manner and at the price it determines, at either public or private sale.

ARTICLE 2. BOND ANTICIPATION NOTES.

SECTION

SECTION

70. Bond anticipation borrowing
80. Issuance of notes
90. Issuance of new notes
100. Repayment of notes

110. Security
120. Limitation
130. Use of proceeds
140. Sale of notes

SEC. 29.58.070. BOND ANTICIPATION BORROWING. A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

(1) the general obligation bonds to be sold have been authorized by the assembly or council and ratified by a majority vote at a regular or special election;

(2) the revenue bonds to be sold have been authorized by ordinance.

SEC. 29.58.080. ISSUANCE OF NOTES. The assembly or council shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time, from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued unless the bonds have not been sold by the maturity date of the notes.

SEC. 29.58.090. ISSUANCE OF NEW NOTES. If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the assembly or council shall issue new notes in order to meet payment of the notes then maturing or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes shall bear a maturity date not to exceed one year from the date of issue. Notes, new notes, and renewals of notes shall not be outstanding for a total elapsed time of more than three years.

SEC. 29.58.100. REPAYMENT OF NOTES. Every note is payable from the proceeds of the sale of bonds which the notes anticipated or from the proceeds of the sale of new bond anticipation notes.

SEC. 29.58.110. SECURITY. (a) Notwithstanding any other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are secured by the full faith, credit, taxing power and resources of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) Notes issued in anticipation of the sale of revenue bonds and the interest on them are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued.

SEC. 29.58.120. LIMITATION. The total amount of notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued.

SEC. 29.58.130. USE OF PROCEEDS. The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes.

SEC. 29.58.140. SALE OF NOTES. Notes issued under this chapter shall be sold by the municipality in the manner and at a price it determines, at either public or private sale, but no note may be sold for less than par and accrued interest.

ARTICLE 3. GENERAL OBLIGATION BONDS.

SECTION

SECTION

150. General obligation bonds
160. Vote and notice of existing indebtedness required

170. Form and terms of sale
180. Payment

SEC. 29.58.150. GENERAL OBLIGATION BONDS. A municipality may acquire, construct, improve and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes.

SEC. 29.58.160. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED.

(a) A municipality may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority of those voting on the question at a regular or special election. Any municipal voter may vote in the bond election, except as otherwise provided by charter or law.

(b) Before a general obligation bond issue election, the assembly or council shall have published a notice of the municipality's total existing bond indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. A notice shall include

(1) the current total general obligation bonded indebtedness, including authorized but unsold bonds of the municipality;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed valuation within the municipality.

SEC. 29.58.170. FORM AND TERMS OF SALE. The assembly or council shall fix the date of the bonds, denominations, maturities, rate of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, and signatures required. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

SEC. 29.58.180. PAYMENT. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount to pay or secure the payment of the principal and interest on bonds, regardless of whether the bonds are in default or in danger of default.

(b) General obligation bonds issued for acquiring, constructing, improving and equipping a municipally-owned utility or other

revenue-generating enterprise may be additionally secured by a pledge of the revenue derived from operation. Bonds so secured are not subject to a debt limitation imposed by a borough or city home rule charter.

ARTICLE 4. REVENUE BONDS.

SECTION

- 200. Revenue bonds
- 210. Forms and terms
- 220. Payment
- 230. Operation of AS 37.10.085

SEC. 29.58.200. REVENUE BONDS. (a) A municipality may acquire, construct, improve and equip capital improvements to be operated upon a revenue-producing basis, and bonds for these purposes are payable solely from [UNPLEDGED] revenue of the public facilities for which the bonds are issued or from revenue of other public revenue-producing facilities Revenue bonds shall not be payable from taxes or from the general funds of the municipality.

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection are payable solely from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality.

(c) A municipality may also issue revenue bonds for any lawful purpose. The bonds are payable from any amounts pledged by the municipality except taxes and do not constitute general obligations of the municipality.

SEC. 29.58.210. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate or rates of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, signatures required, and other details of the bonds. If an officer whose signature appears on the bonds or coupons ceases to be an officer before

delivery of the bonds, his signature is valid as if he had remained in office until delivery.

SEC. 29.58.220. PAYMENT. Bonds issued under AS 29.58.200-- 29.58.220 or the proceedings of the assembly or council authorizing their issuance may contain the covenants which the assembly or council considers advisable concerning

(1) the rates or fees to be charged for services rendered by the public facilities, the revenue of which is pledged to the payment of the bonds, or the terms and conditions of any other amounts collected which are pledged to the payment of the bonds;

(2) the deposit and use of the revenue of the public facilities or of other amounts collected which are pledged to the payment of the bonds;

(3) the issuance of additional bonds payable from revenue of the public facilities or of other amounts collected which are pledged to the payment of the bonds;

(4) the rights of the bondholders in case of default in the payment of the principal or interest on the bonds, including the appointment of a receiver to operate the public facilities;

(5) other covenants as the assembly or council determines.

SEC. 29.58.230. OPERATION OF AS 37.10.085. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

ARTICLE 5. REFUNDING BONDS.

SECTION

240. Authorization
250. Effect of bonds
260. No election required

SECTION

270. Payment of refunding bonds
280. Sale

SEC. 29.58.240. AUTHORIZATION. If a municipality has outstanding general obligation or revenue bonds and the assembly or council determines that it would be financially advantageous to refund the bonds, the assembly or council may provide by ordinance

for the issuance of general obligation or revenue refunding bonds.

SEC. 29.58.250. EFFECT OF BONDS. The refunding bonds may take up and refund all or any part of outstanding bonds at or before their maturity or redemption date. The assembly or council may include various series and issues of bonds in a single issue of refunding bonds.

SEC. 29.58.260. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance of the assembly or council. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question.

SEC. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation refunding bonds are payable according to § 180 of this chapter. Revenue refunding bonds are payable according to § 220 of this chapter.

SEC. 29.58.280. SALE. General obligation or revenue refunding bonds may, in the discretion of the assembly or council, be exchanged at par for the bonds being refunded, or may be sold at public or private sale for an amount not less than par and accrued interest. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

SECTION

- 300. Public sale
- 310. Interest rate
- 315. Bond attorneys, bond and financial consultants

SECTION

- 320. Redemption before maturity
- 340. Borough indebtedness
- 345. Bonded indebtedness
- 350. Bond Guaranty Fund

SEC. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance. No general obligation bonds may be sold at less than par value.

ALTERNATE SEC. 29.58.300. PUBLIC SALE. The municipality shall sell all bonds at a public or private sale as provided by ordinance (NO BONDS MAY BE SOLD AT LESS THAN PAR VALUE).

SEC. 29.58.310. INTEREST RATE. No municipal bond or note may bear an interest rate exceeding the contract usury rate of interest provided by law.

SEC. 29.58.315. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. The governing body or its designee of a home rule or general law municipality shall be the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range financial planning of the municipality which leads to sale of bonds.

SEC. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or note may be made subject to redemption before maturity as stated in the authorization or in the bond or note.

SEC. 29.58.340. BOROUGH INDEBTEDNESS. (a) Boroughs may incur indebtedness

- (1) on an areawide basis for areawide functions; or
- (2) on a noncity basis for functions performed in the area outside cities only; or
- (3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be limited to the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the entire borough is pledged for the payment of the debt of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas.

(d) The indebtedness of a municipality reclassified under AS 29.08.040 is not affected by reclassification. Not less than all property within a municipality which is reclassified remains subject to taxation to amortize bonded or other indebtedness affecting the municipality and authorized on the effective date of reclassification.

SEC. 29.58.345. BONDED INDEBTEDNESS FOR SCHOOL CONSTRUCTION. A home rule city levying property taxes for schools, upon furnishing proof satisfactory to the Department of Education and the Department of Community and Regional Affairs of the needs for school facilities which, if provided, will require the city to exceed limits on authorizing or issuing bonds which may be established by charter, may exceed the limits to the extent necessary to pay costs of school construction. In this section "costs of school construction" means costs as defined in AS 43.18.100(g)(2).

SEC. 29.58.350. BOND GUARANTEE FUND. (a) To guarantee payment by the state of the principal and interest of bonds issued under the enabling authority of § 345 of this chapter, there is in the Department of Community and Regional Affairs a special fund called the local school bond guarantee fund in which there shall be deposited all money appropriated by the legislature for the purpose of the fund and other money which may be made available for the purpose of the fund from any other source. Money in the

fund shall be held and applied solely to further guarantee and provide an additional pledge of payment of all bonds issued under the provisions of § 345 of this chapter. Money shall not be withdrawn from the fund if a withdrawal would reduce the amount in the fund to an amount equal to less than the "maximum debt service reserve" (as defined in this section), except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of a contract between the municipality and its bondholders and for the payments on account of which interest or principal or retirement of bonds other money is not then available in accordance with the terms of the contract. In this section "maximum debt service reserve" means, as of any date of computation, the largest amount of money required by the terms of all contracts between municipalities and their bondholders as to bonds issued under § 345 of this chapter to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of the contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that bonds will cease to be outstanding after the date of the computation by reason of the payment of bonds at their respective maturities and the payments of the required money to sinking funds and the application of the money in accordance with the terms of the contracts to the retirement of bonds.

(b) Money in the guarantee fund at any time in excess of the maximum debt service reserve, whether by reason of investment or otherwise, may be withdrawn by the department and transferred to the general fund.

(c) Money at any time in the guarantee fund may be invested in any direct obligation of, or obligations as to which principal and interest is guaranteed by, the United States, the state or a political subdivision.

(d) For purposes of valuation, investments in the guarantee fund shall be valued at the lowest of the par value, cost to the authority, or market value of the investments. Valuation on any particular date shall include the amount of interest then earned or accrued to that date on any money or investments in the fund.

(e) Other provisions of this section notwithstanding, no bonds may be issued carrying the guarantee provided in this section unless there is in the guarantee fund the maximum debt service reserve for all bonds then issued and outstanding and the bonds about to be issued, but nothing prevents or precludes a municipality from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds about to be issued, upon their issuance, as is needed to achieve the maximum debt service reserve.

(f) In order to assure the maintenance of the maximum debt service reserve in the guarantee fund, there is authorized to be appropriated annually and paid to the authority for deposit in the fund, the sum, if any, that is certified by the commissioner of community and regional affairs to the governor as necessary to restore the fund to an amount equal to the maximum debt service reserve. The chairman shall annually, before December 2, deliver to the governor his certificate stating the sum, if any, required to restore the fund to that amount, and the sum so certified is authorized to be appropriated and paid to the fund during the then current state fiscal year.

(g) Nothing in this section may be considered to cause bonds, payment of which is guaranteed from money in the fund established under this section, to be in any way a debt or liability of the state or any political subdivision of the state other than the political subdivision issuing the bonds, and the bonds, whether or not payable from the maximum debt service reserve created and established under this section, shall not create or constitute an indebtedness, liability or obligation of the state or be or constitute a pledge of the faith and credit of the state.

Agenda Suggestions
from the Title 29 Working Group
to the Title 29 Policy Group

1. Are unified municipalities home rule or general law? This needs to be clarified. *They are brought - probably should not be pulled out of context. They are home rule (29.68.240)*
2. We recommend that AS 29.08.050 Transition be repealed as out of date. *yes*
3. We recommend that the statute concerning REAAs be expanded to include procedures for integrating REAAs into newly organized boroughs.
4. AS 29.18.180. Organization Grants. The dollar amounts of the organizational grants are inadequate. We recommend the amount be tripled.
5. AS 29.68.290 Nomination of charter commission candidates. Should a legislative body be authorized to make appointments to the charter commission in case of vacancies on the commission because of a failure to elect enough people?
6. AS 29.68.440. Powers of a unified municipality. What is a unified municipality? *A borough*
7. Should the percentage requirements for signatures on petitions be lowered?
8. AS 29.68.500 Methods of dissolution. The section regarding the methods of dissolution are confusing, in that the two methods outlined involve substantially the same processes. *No - 29.68.500 recognizes case law interpreting sec 12 & Art X which override if Commission chooses - see Fairview PUD & Anchorage 368 P2 540 and O'Brien v. Pullingham*
9. AS 29.13.050 Initiative and Referendum. This section should be clarified so that Home Rule municipalities are not bound by the procedures set out in the statute. *why not - appears this should be by charter not ordinance. Charter could incorporate general law by reference*

10. We need a more precise way of dealing with inconsistencies between Home Rule and state enactments. *No*

11. AS 29.13.100 Limitation of home rule powers. This "laundry list" of limitations on Home Rule needs to be reviewed. Should there be cross-referencing to the home rule provisions in other statutes? *No - the question of the extent of home rule other than for AS 29 could be very restrictive as to expansion to it. I don't think and decision of other states not possible.*

12. Chapter 18. Development cities. The chapter on development cities should either be reviewed and improved or deleted.

13. Chapter 23. Municipal Officers and Employees. This chapter should have provisions for dealing with the public records of municipalities. Municipalities should have a public records policy such as "except as provided by ordinance, all records shall be public." *Freedom of Information Act for municipalities?*

14. Should municipalities be allowed to set residency requirements for voters? Should the three year residency requirement for elected officials which municipalities are permitted to set be lowered to one year in view of Castner v. City of Homer, specifically upholding one year requirements? *Yes*

15. We feel there should be alternate methods for majority requirements of the votes of municipal assemblies.
sounds like nonsense

16. AS 29.23.021 Assembly composition and apportionment. We feel there should be a greater delineation between composition and reapportionment. *Not understood*

17. There should be provisions for emergency situations arising when there is a lack of a quorum.

18. AS 29.48.130 (a) This should be amended to make possible budget transfers and supplemental appropriations by resolution instead ordinance. *Budget transfer possible. Appropriation by ordinance is long standing practice and nothing is by allowing supplemental by resolution you make budget process meaningless. Any money should be able to handle problems.*

19. What should mayoral veto powers encompass? *Ordinance*

20. How are planning responsibilities to be divided between cities and boroughs? *Leave alone*

21. We recommend that the sections of chapter 23 dealing with the involvement of young people in local government be repealed.

OK but will cost money for

TITLE 29 REVISION COMMISSION
Policy Advisory Group Meeting

Minutes of September 29 & 30, 1980

The second meeting of the Policy Advisory Group of the Title 29 Revision Commission was held September 29, 1980 in Courtroom K of the Alaska Court System Building, 303 K Street, Anchorage, Alaska. The meeting was called to order by Senator Arliss Sturgulewski, Chairman, at 9:00 a.m.

Present as members of the Policy Group were: Senator Arliss Sturgulewski, Representative Charles H. Parr, Ronald Larson, Russell W. Walker, Marilyn Dimmick, Donna Sherby, Jonathan Solomon, James Kohler, Ted Berns, and Dennis Sheldon representing Terry Cook. Ex-Officio members present were Ginny Chitwood and Phil Smith. Richard Garnett, III was there as a member of the Technical Committee. Ted Berns and Russell Walker are members of both the Policy Group and the Technical Group. Present from the staff of Legal Services were Jack Chenowith and Tamara Cook.

There to make presentations to the Policy Group were C. Demming Cowles, Deputy Commissioner of the Department of Environmental Conservation; David Dye, Planner for the Department of Community and Regional Affairs; Dr. Fred McGinnis, Deputy Commissioner of the Department of Health and Social Services; Stephanie Scott, representing the Haines Borough Assembly; and Mike Walleri representing Tanana Chiefs, Inc.

Guests and members of the public attending were: Stuart Bowdoin, Bristol Bay Borough; Gary Bradford, Bristol Bay Borough, Glen Svendsen, Administrative Assistant, Senate Community and Regional Affairs Committee; Cris Fowler, AOGA Regulatory Reform Committee; Ray Menninger from Haines; Jim Bennett, researcher for AVCP (Calista Corporation); Ellen Greenburg, and Emily Larson.

After the meeting was called to order and guests introduced themselves, Commissioner Cowles began the presentations. He spoke regarding the functions of the Department of Environmental Conservation which could be locally done and raised policy questions about whether state or local government should be in charge of the following functions:

1. Water system and sewage disposal inspections.
2. Subdivision review of on-site sanitation capabilities.
3. Basic sanitation inspections of restaurants, hotels, etc.

4. Clean up of small oil spills.
5. The issuing of oily waste burn permits and surface oiling permits.
6. Litter control.
7. Vehicular emissions control.

Changes to Title 29 would have to be made to allow for delegation of these powers. Commissioner Cowles suggested that the statutes could make it optional for small communities to assume these powers and provide for state reimbursement, because money for communities to perform these services is a problem.

Stephanie Scott representing the Haines Borough Assembly spoke next. The borough of Haines would like a clarification of the powers of third class boroughs. She reported that the Borough Chairman had the following recommendations to make:

1. Rewrite 29.48.260(e) to relieve procedural requirements under Libby vs. Dillingham.
2. Include inventories as optional exemptions from personal property taxation.

Ms. Scott stated there would be teleconference facilities available in Haines December 1, and there was a great deal of local interest in participating in a teleconference with the Policy Group.

David Dye, Planner III for the Department of Community and Regional Affairs made these recommendations from his division:

1. The law should be amended to allow municipal land exchanges with individuals. Municipal expansion land in some cases is located too far from the community to be used for municipal expansion. The definition of "municipal purpose" should be clarified.
2. Subsection (c) of 29.48.260 sets out two procedural requirements for land disposal. Mr. Dye recommends that lottery be added as an equitable way of disposing of land which is not based on wealth.
3. The provision for voter ratification of disposal of land valued at more than \$25,000.00 should be changed to reflect current land values. A more realistic figure would be 50,000.00 to 100,000.00 dollars.

*lottery as
less than fair
market value
some
resistance*

4. Subsection (d) of 29.48.260 exempts lands derived from the state from procedural requirements. C&RA suggests that exemption turn on the purpose of disposal, not the source of the land.

5. Under ANCSA, people who have occupied land after December 18, 1971 do not receive title to that land. C&RA would like a preference right for occupiers of land after that date to allow them to purchase land without having to bid.

6. Mr. Dye would like a definition of "official map".

7. The wording of AS 29.23.090 should be changed to substitute "land use regulation" for "zoning".

8. C&RA suggests that rather than a platting waiver provision, the section include a "short plat" provision to allow for additional platting requirements if the land were subsequently re-subdivided.

9. AS 29.33.070(b)(2) allows boroughs to delegate planning and zoning to cities. The Department of Community and Regional Affairs believes in consistent area-wide planning and wants only the delegation of enforcement and administration of planning.

10. The sections regarding Development Cities should be deleted.

Mike Walleri of Tanana Chiefs, Inc. spoke regarding municipal lands disposal and the need for preference to occupiers of land regarding purchasing rights. This should, however, be subject to the municipality's sanction of the use of the land. Mr. Walleri recommends a waiver of the requirements for land payments to the municipality, or that the state assist buyers in paying for the land. Tanana Chiefs would support a lottery system if the preference rights and waiver of payments to municipalities were included. Mr. Walleri spoke in favor of integrating traditional native governments into the municipal system, possibly through recognition by the state of the status of native governments as local state governments.

Dr. Fred McGinnis of the Department of Health and Social services told us that his department recommends the delegation of health powers to municipalities. If municipalities were to take over the providing of services, the DHSS would still receive federal funding, would disburse the funds, would audit programs, supervise, and be responsible to the federal government for the administration of the programs. He emphasized that these powers should be optional rather than mandatory, and that in the absence of local government being able to take over the function of health services, a local contractor could provide them.

Doubtful - don't see this way because the local government handling has a bad record

quality rights? how much like a land sale no case law around such real property

sub? 29.23.090 doubtful - zoning has fine meaning

If we do this we get into the more than 2 lot fight again.

Sound idea - do we want to get the heart of the borough city hall going again.

One policy

unconstitutional see A to 10 gaining to Walleri

After the presentations, the committee considered Old Business. Phil Smith gave a report on the conclusions of the Information Dissemination Committee. Their recommendations are: take advantage of scheduled meetings and conventions being held by interested groups; put inserts in newsletters; buy space in newspapers; and use the teleconference network. Mr. Smith reported that the Alaska Federation of Natives Convention will be making a room available for us at the Sheraton. Chairman Sturgulewski said a member of each group should be available to attend the AFN Convention. She also directed the Department of Community and Regional Affairs to prepare an article on the Title 29 revision project for newsletters.

Ted Berns gave a report from the Technical Committee. He explained the draft index of Title 29, saying the reorganization had been done by subject matter. Mr. Berns told the Policy Group that the Technical Group was now ready to start drafting and the group had broken up into smaller groups to work on specific changes.

Chairman Sturgulewski said the Policy Group would like justification of all drafted changes in the form of memos pointing out the pluses and minuses of each change.

Ted Berns suggested that the Policy Group go through the index section by section and determine policy questions.

The Policy Group reviewed the index until recessing at 4:30.

The meeting was called to order 30 September 1980 at 9:00 a.m. by Chairman Sturgulewski. With the exception of Bob Lohr sitting in for Phil Smith, the same members were present. Guests were: Bob Walker of Exxon; Cris Fowler of the AOGA Regulatory Reform Committee; David Dye from the Department of Community and Regional Affairs; Stephanie Scott, Ray Menninger, and Vivian Menninger from the Haines Borough; Glen Svendsen, Administrative Assistant to the Senate Community and Regional Affairs Committee; and Mike Walleri, Tanana Chiefs, Inc.

The Policy Group continued their review of the Title 29 index and the Technical Group was directed to make recommendations regarding the following:

1. AS 29.13.100. Review and make recommendations as to the limitations of home rule powers. *Careful - this is probably the reason the court dropped the local authority suit*
2. Edit the whole of Title 29 so that definitions are consistent. *Yes*
3. List those procedures which can be handled by ordinances. *What does this mean?*

4. Prepare drafts to change prohibitions on powers.
5. Draft changes to the statute regarding initiative and referendum. *which way - give popular (don't let them "out") or submit changes to the judges*
6. Draft provisions for emergency situations arising from the lack of a quorum.
7. Redraft statute enabling budget actions to take place other than by ordinance. (Enable an individual municipality to set it's own limits) *Don't understand*
8. Make recommendations regarding whether first class boroughs should be eliminated and consider the impact of this step. *I feel this option should remain open.*
9. Find out whether second class boroughs would still be able to implement a similar program if the statute about the Involvement of Young People in Local Government were to be deleted.

Chairman Sturgulewski directed that the Local Boundary Commission and Alan Tesche be invited to make a presentation in defense of retaining the statutes regarding Development Cities.

Probably not constitutional but not certain
Ron Larson moved the Policy Group retain the 3-year residency requirement for candidates for municipal office. The motion was seconded, Jim Kohler raised a point of order. The motion carried.

4 Marilyn Dimmick moved that the wording of the grounds for recall be deleted. The motion was seconded. Ron Larson moved to table the motion. Larson's motion failed. Ted Berns moved to postpone the motion until the next meeting. The motion for postponement passed.

Bob Lohr of RuralCAP was directed to come back with specific recommendations for the Technical Group regarding small communities and their problems.

The meeting was adjourned at 4:00 p.m.

Respectfully submitted,

Melissa Aber Fouse
Melissa Aber Fouse
Secretary

CHAPTER 15. BOUNDARY CHANGES BY LOCAL ACTION

Article

1. Annexation to Municipalities
2. Detachment from Municipalities

ARTICLE 1. ANNEXATION TO MUNICIPALITIES

Section

10. Initiation of request for boundary change
20. Form and contents of petition
30. Exhibits
40. Annexation of territory of another municipality
50. Filing of petition
60. Sufficiency
70. Review by Local Boundary Commission
80. Election
90. Notice of election
100. Conduct of election
110. Form of ballot
120. Canvassing of election
130. Effective date of annexation
140. Annexation without election
150. Annexation of municipally-owned property
160. Timeliness

19 AAC 15.010. INITIATION OF REQUEST FOR BOUNDARY CHANGE. (a) A request for an annexation under secs. 10-160 of this chapter may be initiated by a petition signed by at least ten percent of the currently registered voters residing within the territory proposed to be annexed, or by a petition of the municipality seeking annexation.

(b) The person or entity initiating the petition shall be designated petitioner. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.020. FORM AND CONTENTS OF PETITION. (a) The petition shall be addressed to the Department of Community and Regional Affairs and shall bear a caption which clearly identifies the nature of the boundary change and

the municipality whose boundary is to be changed.

(b) The petition shall contain:

(1) the name, residence address, and mailing address of each petitioner;

(2) the name and mailing address of the attorney or other representative designated by the petitioner(s) to receive service, notice and all other correspondence relating to the proceedings in behalf of the petitioner(s);

(3) a legal description of the territory affected by the proposed boundary change;

(4) the estimated number of residents within the territory proposed to be annexed;

(5) the quantity of land contained within the territory proposed to be annexed;

(6) the assessed or estimated value of all real and personal property within the territory proposed to be annexed;

(7) the rate or rates at which real and personal property are taxed within the municipality to which annexation is proposed;

(8) the rate or rates of any sales or use tax levied by and/or collected within the municipality to which annexation is proposed;

(9) the amount of and a full explanation of any outstanding bonded indebtedness for which the territory proposed to be annexed is wholly or partially responsible;

(10) the population and area of the annexing municipality. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.65.010(b)
AS 44.19.260(a)(2)

19 AAC 15.030. EXHIBITS. There shall be appended to the petition the following exhibits:

(1) a map or maps showing the boundaries of the territory proposed for annexation; and

(2) an affidavit indicating the source from which the information contained in the petition and exhibits was acquired, and stating that an estimation of the population was made, specifying the dates when the estimate was made and circumstances indicating its accuracy. If an official census has been made of the territory by the federal, state or municipal government within two years of the petition, a copy of that census may be appended to the petition in lieu of the census affidavit. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.040. ANNEXATION OF TERRITORY OF ANOTHER MUNICIPALITY.

(a) If a petition seeks annexation to a borough, of territory that is part of another city, the assembly or council of the municipality to which annexation is sought shall transmit, together with those documents required in secs. 20 and 30 of this chapter, a description of all municipally-owned improvements or assets relating to services that will be undertaken by it, and an enumeration of all debts or obligations relating to said improvements or assets. Before undertaking review, the department shall require the following to be filed:

(1) a petition for detachment from the municipality from which the subject territory is to be excluded;

(2) an agreement between the municipalities apportioning and distributing between them the debt attributable to those improvements and assets within the territory proposed to be annexed, which method of apportionment or distribution shall be in a form acceptable to the department.

(b) If a petition seeks annexation to a city of territory that is part of an organized borough, the council of the city to which annexation is sought shall transmit, together with those documents required in secs. 20 and 30 of this chapter, a description of all improvements and assets of the borough relating to services that will be undertaken by it, and an enumeration of all debts or obligations relating to said improvements or assets. Before undertaking review, the department shall require to be filed

an agreement between the city and borough apportioning and distributing between them the assets and debts attributable to the territory to be annexed. If such agreement is not forthcoming, the city council may submit in lieu thereof a proposal governing such distribution. Unless the distribution is governed by an agreement between the municipalities, the Local Boundary Commission shall specify the method of distribution. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.050. FILING OF PETITION. A petition initiated by 10 percent of the registered voters in the area to be annexed shall be filed with the assembly or council of the municipality. If the assembly or council desires to proceed with the annexation of the territory that is the subject of the petition, it shall adopt a resolution of intention to annex which shall specifically incorporate the terms and provisions of the petition. One copy of the resolution, together with the petition, exhibits, and all related materials, shall be served upon the Department of Community and Regional Affairs. A petition initiated by the municipality shall be forwarded, along with other required material, directly to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.060. SUFFICIENCY. Within 30 days of receipt of the petition, exhibits, and all supporting data required by secs. 20-40 of this chapter, the department shall determine whether the documents are sufficient, the department shall refer the file to the Local Boundary Commission, together with such report or recommendations as it desires. A deficient petition shall be returned to the petitioners for correction, and notice of return transmitted to the assembly or council of the municipality. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.070. REVIEW BY LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission shall review the petition, all exhibits thereto, the resolution, and other pertinent data. Such review shall be limited to the following factors:

(1) whether the annexation would be inimical to the interests of the State or any municipality other than the municipality to which annexation of the territory is sought;

(2) whether the territory proposed for annexation is grossly disproportionate in size to the population residing therein, provided, however, that this provision shall not prohibit an annexation merely because the area to be annexed consists of or contains uninhabited territory.

(b) If the Local Boundary Commission determines that the petition is defective under the provisions of subsection (a) (1) or (2), it shall return the petition to the petitioner(s) together with such comments or observations as may be appropriate and conducive to resubmission of the proposal.

(c) If the Local Boundary Commission accepts the petition, resolution, and related material, it may so notify the assembly or council of the municipality, and direct that an election be conducted on the proposal.

(d) A decision of the Local Boundary Commission shall be rendered within 30 days of report of the petition by the department. The commission may act by telephone or mail. In no event shall non-compliance with the time limit established herein for commission action affect the validity of an election or annexation.

(e) Notwithstanding any other provision of this chapter, if the Local Boundary Commission prior to a decision to submit the annexation to an election under sec. 80 of this chapter determines that a proposed annexation is of compelling public importance it may require that the petition be acted upon pursuant to chapters .05 and .10 of this title. If such determination is made, the Local Boundary Commission shall schedule public hearings

within 45 days, and shall notify the municipality of its determination. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.080. ELECTION. The assembly or council shall submit the proposition to the voters in the area proposed to be annexed in accordance with applicable provisions of the election code of the municipality, but in any event, the election shall be held not less than 60 or more than 90 days after notification by the Local Boundary Commission that the petition has been accepted. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.090. NOTICE OF ELECTION. The assembly or council shall give notice of the election by publication of notice in a newspaper of general circulation in the territory proposed to be annexed once each week for a period of three successive weeks before the election, and by posting notice in three public places in the municipality within the territory proposed to be annexed during the same period. Posting of the notices and initial publication of the notice in the newspaper shall be at least four weeks before the date of the election. The notice shall state:

(1) the proposition to be submitted;

(2) the boundaries of the territory to be annexed; and

(3) any provision or agreement governing distribution of debt or assets required under 19 AAC 15.040. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.100. CONDUCT OF ELECTION. Except as otherwise provided in this chapter, the assembly or council of the municipality to which annexation of the territory is sought shall conduct the election in the manner prescribed by its election code. The municipality seeking

annexation shall pay all election costs. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.110. FORM OF BALLOT. The assembly or council shall place upon the ballot the following proposition: "Shall the following described territory be annexed to the City/Borough of? Yes or No." If the proposal is subject to 19 AAC 15.040, the ballot shall also disclose the method of distributing debt and assets in a form acceptable to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.120. CANVASSING OF ELECTION. The assembly or council shall meet within 10 days of the election and canvass the vote cast. The assembly or council shall issue a certificate showing the number of votes cast in favor of annexation and the number of votes cast against annexation. The certificate, together with all ballots cast, shall immediately be filed with the clerk of the municipality and a copy forwarded to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.130. EFFECTIVE DATE OF ANNEXATION. An annexation shall be effective upon the filing of the certificate required by 19 AAC 15.120 to the effect that a majority of the votes cast were in favor of the annexation. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.140. ANNEXATION WITHOUT ELECTION. (a) Notwithstanding the provisions of secs. 80-120 of this chapter, an area adjoining the municipality may be annexed by ordinance if all property owners and registered

voters within the area petition the assembly or council for annexation.

(b) The assembly or council seeking to annex territory under this section shall forward to the department a certified statement of the municipal clerk that the petition received has been signed by all current registered voters and property owners.

(c) In its review, the department shall determine from information available to it whether the requisite signatures have been obtained. The department shall notify the assembly or council whether the petition is in accordance with this section, and if it is in accordance with this section, the annexation is effective upon such notification.

(d) For the purposes of this section the term "property owners" means all persons or entities necessary to convey fee title to the property in question but does not include mortgagees or trustees or beneficiaries under deeds of trust. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.150. ANNEXATION OF MUNICIPALLY OWNED PROPERTY. (a) Notwithstanding other provisions of this chapter, municipally owned property adjoining the municipality may be annexed by ordinance without voter approval.

(b) Within five days of adoption of an ordinance annexing territory pursuant to (a) of this section, one certified copy of the ordinance, giving the date of adoption, shall be filed with the Department of Community and Regional Affairs. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.160. TIMELINESS. No area subject to a petition under this chapter which was defeated in an election may be included in the area covered by a subsequent petition under

this chapter filed within one year after the original petition. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

ARTICLE 2. DETACHMENT FROM MUNICIPALITIES

Section

- 170. Initiation of request for boundary change
- 180. Form and contents of petition
- 190. Exhibits
- 200. Detachment of territory from a city within an organized borough
- 210. Filing of petition
- 220. Sufficiency
- 230. Review by Local Boundary Commission
- 240. Election
- 260. Conduct of election
- 270. Form of ballot
- 280. Canvassing of election
- 290. Effective date of detachment
- 300. Timeliness

19 AAC 15.170. INITIATION OF REQUEST FOR BOUNDARY CHANGE. (a) A request for a detachment under secs. 170-300 of this chapter may be initiated by a petition signed by at least 10 percent of the currently registered voters residing within the territory proposed to be detached, or by petition of the municipality seeking detachment.

(b) The person or entity initiating the petition shall be designated petitioner. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.180. FORM AND CONTENTS OF PETITION. (a) The petition shall be addressed to the Department of Community and Regional Affairs and shall bear a caption which clearly identifies the nature of the boundary change and the municipality whose boundary is to be changed.

(b) The petition shall contain

(1) the name, residence address, and mailing address of each petitioner;

(2) the name and mailing address of the attorney or other representative designated by the petitioner(s) to receive service, notice and all other correspondence relating to the proceedings in behalf of the petitioner(s);

(3) a legal description of the territory affected by the proposed boundary change;

(4) the estimated number of residents within the territory proposed to be detached;

(5) the quantity of land contained within the territory proposed to be detached;

(6) the assessed or estimated value of all real and personal property within the territory proposed to be detached;

(7) the rate or rates at which real and personal property are taxed within the municipality from which detachment is proposed;

(8) the rate or rates of any sales or use tax levied by and/or collected within the municipality from which detachment is proposed;

(9) the amount of and a full explanation of any outstanding bonded indebtedness for which the territory proposed to be detached is wholly or partially responsible;

(10) the population and area of the detaching municipality. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.190. EXHIBITS. There shall be appended to the petition the following exhibits:

(1) a map or maps showing the boundaries of the territory proposed for detachment; and

(2) an affidavit indicating the source from which the information contained in the petition and exhibits was acquired, and stating that an estimation of the population was made, specifying the dates when the estimate was made

and circumstances indicating its accuracy. If an official census has been made of the territory by the federal, state or municipal government within two years of the petition, a copy of that census may be appended to the petition in lieu of the census affidavit. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.200. DETACHMENT OF TERRITORY FROM A CITY WITHIN AN ORGANIZED BOROUGH. If a petition seeks detachment from a city of territory that is part of an organized borough, the council of the city from which detachment is sought shall transmit, together with those documents required in secs. 180-190 of this chapter, a description of all improvements and assets of the city relating to services that are being furnished by it within the territory proposed for detachment, and an enumeration of all debts or obligations relating to said improvements or assets. Before undertaking review, the department shall require to be filed an agreement between the city and organized borough apportioning and distributing between them the assets and debts attributable to the territory to be detached. If such agreement is not forthcoming, the city council may submit in lieu thereof a proposal governing such distribution. Unless the distribution is governed by an agreement between the municipalities, the Local Boundary Commission shall specify the method of distribution. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.210. FILING OF PETITION. A petition initiated by 10 percent of the registered voters in the area to be detached shall be filed with the assembly or council of the municipality. If the assembly or council desires to proceed with the detachment of the territory that is the subject of the petition, it shall adopt a resolution of intention to detach which shall specifically incorporate the terms and provisions of the petition. One copy of the resolution, together with the petition, exhibits, and all related materials, shall be served upon the Department of Community and Regional

Affairs. A petition initiated by the municipality shall be forwarded, along with the other required materials, directly to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.220. SUFFICIENCY. Within 30 days of receipt of the petition, exhibits, and all supporting data required by secs. 180-210 of this chapter, the department shall determine whether the documents are sufficient as to form and contain the required information. If the documents are found to be sufficient, the department shall refer the file to the Local Boundary Commission, together with such report or recommendation as it desires. A deficient petition shall be returned to the petitioners for corrections, and notice of return transmitted to the assembly or council of the municipality. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.230. REVIEW BY LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission shall review the petition, all exhibits thereto, the resolution and other pertinent data. Such review shall be limited to the following factors:

(1) whether the detachment would be inimical to the interests of the state or any municipality other than the municipality from which detachment of the territory is sought;

(2) whether the territory proposed for detachment is grossly disproportionate in size to the population residing therein, provided, however, that this provision shall not prohibit a detachment merely because the area to be detached consists of or contains uninhabited territory.

(b) If the Local Boundary Commission determines that the petition is defective under the provisions of subsections (a) (1) or (2), it shall return the petition to the petitioner(s) together with such comments or observations as

may be appropriate and conducive to resubmission of the proposal.

(c) If the Local Boundary Commission accepts the petition, ordinance, and related material, it may so notify the assembly or council of the municipality, and direct that an election be conducted on the proposal.

(d) A decision of the Local Boundary Commission shall be rendered within 30 days of report of the petition by the department. The commission may act by telephone or mail. In no event shall non-compliance with the time limit established herein for commission action affect the validity of an election or detachment.

(e) Notwithstanding any other provision of this chapter, if the Local Boundary Commission determines that a proposed detachment is of substantial public importance, it may require that the petition be acted upon pursuant to Chapters .05 and .10 of this title. If such determination is made, the Local Boundary Commission shall schedule public hearings within 45 days, and shall notify the municipality of its determination. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.240. ELECTION. The assembly or council shall submit the proposition to the voters in the area proposed to be detached in accordance with applicable provisions of the election code of the municipality, but in any event, the election shall be held not less than 60 nor more than 90 days after notification by the Local Boundary Commission that the petition has been accepted. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.260. CONDUCT OF ELECTION. Except as otherwise provided in this chapter, the assembly or council of the municipality from which detachment of the territory is sought shall conduct the election in the manner prescribed by its election code. The municipality seeking

detachment shall pay all election costs. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.270. FORM OF BALLOT. The assembly or council shall place upon the ballot the following proposition: "Shall the following described territory be detached from the City/Borough of? Yes or No." If the proposal is subject to 19 AAC 15.200, the ballot shall also disclose the method of distributing debt and assets in a form acceptable to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.280. CANVASSING OF ELECTION. The assembly or council shall meet within 10 days of the election and canvass the vote cast. The assembly or council shall issue a certificate showing the number of votes cast in favor of detachment and the number of votes cast against detachment. The certificate, together with all ballots cast, shall immediately be filed with the clerk of the municipality and a copy forwarded to the department. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.290. EFFECTIVE DATE OF DETACHMENT. A detachment shall be effective upon the filing of the certificate required by 19 AAC 15.120 to the effect that a majority of the votes cast were in favor of detachment. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

19 AAC 15.300. TIMELINESS. No area subject to a petition under this chapter which was defeated in an election may be included in the area covered by a subsequent petition under

this chapter filed within one year after the original petition. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 29.68.010(b)
AS 44.19.260(a)(2)

CHAPTER 20. MISCELLANEOUS PROVISIONS

Section

- 10. Severability of parts of regulations
- 20. General provisions
- 30. Definitions

19 AAC 20.010. SEVERABILITY OF PARTS OF REGULATIONS. The sections, paragraphs, sentences, clauses and phrases of these regulations are severable, and if any phrase, clause, sentence, paragraph, or section of these regulations shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of these regulations. (Eff. 10/13/72, Reg. 45)

Authority: Art. X, Sec. 12
State Constitution
AS 44.19.260(a)(2)

19 AAC 20.020. GENERAL PROVISIONS. (a) Nothing in this chapter may be construed to require the commission to approve a boundary change which the commission determines not to be in the best interest of sound local government.

(b) The enumeration in this chapter of standards or factors for consideration may not be construed as exclusive of other factors which, in the view of the commission, are relevant to the decision in question.

(c) Before incorporation of a borough located wholly or partially within an existing borough or of a city located wholly or partially within an existing city may become effective, the commission must submit the proposed incorporation to the legislature in the manner provided for in boundary changes. In addition, the commission may condition such an incorporation on approval by a majority of the voters of the existing borough or city. (Eff. 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12
State Constitution
AS 44.19.260(a)(2)

19 AAC 20.030. DEFINITIONS.

(1) "annexation" means an alteration of municipal boundaries which adds territory.

(b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

Sec. 29.12.160 (29.68.110). ORDINANCES. No change

NOTE: (1) substantive change in eliminating AS 29.68.030. The Local Boundary Commission has not adopted any regulation under (1), so there is only one way to initiate merger or consolidation.

(2) substantive change in AS 29.68.040(a) of the number of signatures required to petition from 25 percent to 15 percent, which matches percentages required for petition for other boundary alterations or for formation of municipality. Why should this be different? Residents are protected because they vote on the question.

(3) technical change in AS 29.68.090(d) to add procedural requirements and eliminate cross-reference to AS 29.10 120 for ease of use of this section.

ARTICLE 3. MERGER AND CONSOLIDATION

Sec. 29.12.090 (29.68.040). PETITION. Merger or consolidation of two or more municipalities is proposed by filing with the department a petition containing

- (1) the name and class of each municipality;
- (2) the name and class of the proposed municipality;
- (3) the proposed composition and apportionment of the assembly or council;
- (4) maps, documents, and other information required by the department;
- (5) the signature and resident address of 15 per cent of the permanent resident voters in each municipality based on the number who voted in the last regular election.

Sec. 29.12.100 (29.68.050, 070). REVIEW AND INVESTIGATION.

(a) The department shall review a petition for merger or consolidation and return a deficient petition for correction.

(b) If a petition contains the required information and number of signatures, the department shall investigate the proposal.

(c) After investigation of a proposal, the department shall report its findings and recommendations to the Local Boundary Commission.

Sec. 29.12.110 (29.68.070, 080). HEARING AND DECISION.

(a) Prior to making a decision regarding a petition for merger or consolidation, the Local Boundary Commission shall hold at least one public hearing in each of the municipalities included in the petition, unless officials of the municipalities agree to a single hearing.

(b) If the Local Boundary Commission determines that a proposed merger or consolidation fails to meet the standards for municipal incorporation, it shall reject the petition. If the commission determines that the proposed merger or consolidation meets the standards, it shall accept the petition. If the commission determines that the proposed boundaries or the composition and apportionment of the assembly or council can be altered to meet the standards, it may change the proposal and accept the petition.

(c) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a merger or consolidation petition.

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

Sec. 29.12.140 (29.68.090). ELECTION. (a) Within 30 days after notification of acceptance of a merger or consolidation petition, the lieutenant governor shall order an election within the area to be included in the proposed municipality to be held not less than 30 nor more than 90 days after the order.

(b) A voter who is a resident of the area to be included within the proposed municipality may vote.

(c) The lieutenant governor shall supervise the election in the manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results. If merger or consolidation is approved, he shall, within ten days, order an election for officers of the new municipality to be held not less than 30 nor more than 90 days after the order. The election order must specify the dates during which nomination petitions for election of officers may be filed. The merger or [§]consolidation becomes effective upon election of municipal officers.

Sec. 29.12.150 (29.68.100). ASSETS AND LIABILITIES.

(a) When two or more municipalities merge, one municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities as specified in the merger petition.

(b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

Sec. 29.12.160 (29.68.110). ORDINANCES. No change

add a line →

NOTE: (1) substantive change in eliminating AS 29.68.030. The Local Boundary Commission has not adopted any regulation under (1), so there is only one way to initiate merger or consolidation.

(2) substantive change in AS 29.68.040(a) of the number of signatures required to petition from 25 per cent to 15 per cent, which matches percentages required for petition for other boundary alterations or for formation of

municipality. Why should this be different? Residents are protected because they vote on the question.

(3) technical change in AS 29.68.090(d) to add procedural requirements and eliminate cross-reference to AS 29.18.120 for ~~each~~ of use of this section.
case

ARTICLE 3. MERGER AND CONSOLIDATION

Sec. 29.12.090 (29.68.040). PETITION. (A) Merger or consolidation of two or more municipalities is proposed by filing with the department a petition containing

- (1) the name and class of each municipality;
- (2) the name and class of the proposed municipality;
- (3) the proposed composition and apportionment of the assembly or council;
- (4) maps, documents, and other information required by the department;
- (5) the signature and resident address of 15 percent of the permanent resident voters in each municipality based on the number who voted in the last regular election.

AS 29.12.100 (29.68.050, .070). REVIEW AND INVESTIGATION. (a) The department shall review a petition for merger or consolidation and return a deficient petition for correction.

(b) If a petition contains the required information and number of signatures, the department shall investigate the proposal.

(c) After investigation of a proposal, the department shall report its findings and recommendations to the Local Boundary Commission.

~~Sec. 29.12.110~~ ~~AS 29.12.110~~ ~~HEARING/AND/DECISION/~~ 12.110 (29.68.070, .080). HEARING AND DECISION. (a) Prior to making a decision regarding a petition for merger or consolidation, the Local Boundary Commission shall hold at least one public hearing in each of the municipalities included in the petition, unless officials of the municipalities agree to a single hearing.

(b) If the Local Boundary Commission determines that a proposed merger or consolidation fails to meet the standards for municipal incorporation, it shall reject the petition. If the commission determines that the proposed merger or consolidation meets the standards, it shall accept the petition. If the commission determines that the proposed

boundaries or the composition and apportionment of the assembly or council can be altered to meet the standards, it may change the proposal and accept the petition.

(c) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of a merger or consolidation petition.

(d) A decision by the Local Boundary Commission under this section may be appealed under the Administrative Procedure Act (aAS 14.62).

Sec. 29.12.1⁴20 (29.68.090). ELECTION. (a) Within 30 days after notification of acceptance of a merger or consolidation petition, the lieutenant governor shall order an election within the area to be included in the ^{proposed} ~~new~~ municipality to be held not less than 30 nor more than 90 days after the order.

(b) A voter who is a resident of the area to be included within the proposed municipality may vote.

(c) The lieutenant governor shall supervise the election in the manner prescribed by the Alaska Election Code (AS 15.05-15.60). The state shall pay all election costs.

(d) The lieutenant governor shall certify the election results. If merger or consolidation is approved, ~~he shall, within 10 days, set a date for election of officers of the new municipality under AS 29.09.120 (29.12.120)~~

he shall, within 10 days, order an election/^{for officers of} ~~in~~ the new municipality to be held not less than 30 nor more than 90 days after the order. The election order must specify the dates during which nomination petitions for election of officers may be filed. The merger or consolidation becomes effective upon election of municipal officers.

Sec. 29.12.150 (29.68.100). ASSETS AND LIABILITIES. (a) When two or more municipalities merge, one municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities as specified in the merger petition.

(b) When two or more municipalities consolidate, the newly

incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

Sec. 29.12.160 (29.68.110). ORDINANCES. No change.

- Note: (1) substantive change in eliminating AS 29.68.030. The Local Boundary Commission has not adopted any regulation under (1), so there is only one way to initiate merger or consolidation.
- (2) substantive change in AS 29.68.040(a) of the number of signatures required to petition from 25% to 15%, which matches percentages required for other boundary alterations or for formation of a municipality. *petition for*
Residents are protected because they vote on the question
Why should this be different? *technical*
- (3) ~~substantive~~ change in AS 29.68.090(d) to add ~~"The election order must specify the dates during which nomination petitions for election of officers may be filed."~~ This fills a procedural gap and conforms to procedure set out for the election of initial officers in a newly formed municipality. *add procedural requirements and eliminate cross-reference to 29.18.120 for ease of use of this section*

ARTICLE 2. ANNEXATION AND EXCLUSION.

Sec. 29.12.040 (29.68.010). MUNICIPAL BOUNDARY CHANGE.

(a) The Local Boundary Commission may consider and adopt by regulation a change of municipal boundary. A decision to alter a municipal boundary may be appealed under the Administrative Procedure Act (AS 44.62).

(b) In addition to the regulations governing annexation by local action adopted under AS 44.19.260, the Local Boundary Commission shall establish procedures for annexation and exclusion of territory by a municipality by local action. The regulations shall include a requirement that

(1) a proposed annexation or exclusion be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

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

(3) an area adjoining a municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a change initiated by local action, without regard to priority in time.

Sec. 29.12.040 (29.68.020). ANNEXATION OF A MILITARY RESERVATION. A military reservation may be annexed to a municipality in the manner prescribed by AS 29.12.040 (29.68.010). If a city within a borough annexes a military reservation, the area encompassing the reservation is automatically annexed to the borough.

NOTE: substantive revision of 29.68.010(a) in view of the suggestion by City of St. Mary's and to avoid possible difficulties presented by the A.L.I.V.E. decision regarding the use of resolution to overturn agency action.

ARTICLE 2. ANNEXATION AND EXCLUSION.

Sec. 29.12.040 (29.68.010). MUNICIPAL BOUNDARY CHANGE.

(a) The Local Boundary Commission may consider and adopt by regulation a change of municipal boundary. A decision to alter a municipal boundary may be appealed under the Administrative Procedure Act (AS 44 62).

(b) In addition to the regulations governing annexation by local action adopted under AS 44.19.260, the Local Boundary Commission shall establish procedures for annexation and exclusion of territory by a municipality by local action. The regulations shall include a requirement that

(1) a proposed annexation or exclusion be approved by a majority of the voters voting on the question residing within the area proposed to be annexed or excluded;

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

(3) an area adjoining a municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a change initiated by local action, without regard to priority in time.

Sec. 29.12.040 (29.68.020). ANNEXATION OF A MILITARY RESERVATION. A military reservation may be annexed to a municipality in the manner prescribed by AS 29.12.040

(29.68.010). If a city within a borough annexes a military reservation, the area encompassing the reservation is automatically annexed to the borough.

↑ NOTE: substantive revision of 29.68.010(a) in view of *the* suggestion by City of St. Mary's and to avoid possible difficulties presented by the A.L.I.V.E. decision regarding *the* use of resolution to overturn agency action.

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29.12.040 ARTICLE 2. ANNEXATION AND EXCLUSION.

Sec. ^{29.12.040} (29.68.010). MUNICIPAL BOUNDARY CHANGE. (a) The Local Boundary Commission may consider and adopt by regulation any ~~local/government/~~ change of municipal boundaries. A decision to alter ^a municipal boundaries may be appealed under the Administrative Procedure Act (AS 44.62).

(b) In addition to the regulations governing annexation by local action adopted under AS 44.19.260, the Local Boundary Commission shall establish procedures for annexation and exclusion of territory by a ~~city~~ municipality by local action. The ~~procedures established under~~ ^{regulations} ~~this subsection~~ shall include a requirement that

(1) ~~a regulation requiring that~~ a proposed annexation or exclusion be approved by a majority ~~vote~~ of the voters voting on the question residing within the area proposed to be annexed or excluded;

(2) ~~a requirement that~~ municipally - owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(3) ~~a requirement that~~ an area adjoining ^a the municipality may be annexed by ordinance without an election if all property owners and voters within the area petition the assembly or council.

(c) A boundary change effected under (a) of this section prevails over a change initiated by local action, without regard to priority in time.

29.12.050
Sec. ^{29.12.050} (29.68.020). ANNEXATION OF A MILITARY RESERVATION. A military reservation may be annexed to a municipality in the manner prescribed by AS ^{29.12.040} (29.68.010). If a city within a borough annexes a military reservation, ^{is} the area encompassing the reservation/automatically annexed to the borough.

Note: substantive revision of 29.68.010(a) in view of suggestion by City of St. Mary's and to avoid possible difficulties presented by the A.D.E. decision regarding use of resolution to overturn agency action.

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CHAPTER 12. ALTERATION OF A MUNICIPALITY

Article 1. Change of Municipal Name

Sec. 29.12.010 (29.73.050). CHANGE OF NAME. (a) The name of a municipality may be changed by ordinance which is ratified by majority vote at a regular or special election and filed with the lieutenant governor. Upon receipt of a ratified ordinance, the lieutenant governor shall issue an order to the municipality changing its name in compliance with the ordinance. A name change shall become effective within 45 days of receipt of the ordinance on a date fixed in the order. A copy of the order shall be sent to the department.

(b) An ordinance changing the name of a municipality which is ratified by the voters may not be repealed, except by adopting a different name as provided in (a) of this section.

(c) Suits, applications, petitions, hearings and other proceedings to which a municipality is a party which are pending or brought after a change of municipal name shall proceed in the name of the municipality as changed by order.

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NOTE: substantive change in (b). I cannot see any reason to allow repeal of an ordinance which has been ratified by the voters, unless the voters will ratify the change.

CHAPTER 12. ALTERATION OF A MUNICIPALITY

29.12.010 ARTICLE 1. CHANGE OF MUNICIPAL NAME

- Sec. 29.73.050 CHANGE OF NAME. (a) The name of a municipality may be changed by ordinance which is ratified by ^amajority of voters at regular a ~~general~~ or special election and filed with the ~~office of the~~ lieutenant governor. Upon receipt of a ratified ordinance, the lieutenant governor shall issue an order to the municipality changing its name in compliance with the ordinance. A name change shall become effective within 45 days of receipt of the ordinance on a date fixed in the order. A copy of the order shall be sent to the department.
- (b) An ordinance ^{changing} which ~~changes~~ the name of a municipality/ which is ratified by the voters may not be repealed, except by adopting a different name as provided in (a) of this section.
- (c) Suits, applications, petitions, hearings and other proceedings to which ^athe municipality is a party which are pending or brought after ^{a change of municipal name} the effective date of the ~~municipality changes its name~~ shall proceed in the name of the municipality as changed by order.

Note: substantive change in (b). I cannot see any reason to allow repeal of an ordinance which has been ratified by the voters, unless the voters will ratify the change.

ARTICLE 2. PROCEDURES

Sec. 29.09.060 (29.18.050). PETITION. (a) Municipal incorporation is proposed by filing with the department a petition containing the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) maps, documents, and other information required by the department;
- (5) a proposed municipal budget projecting sources of income and items of expenditure through the first full fiscal year of operation;
- (6) composition and appointment of the assembly or council;

(b) In addition to requirements set out in (a) of this section, a petition proposing incorporation of a borough shall contain the following:

- (1) based on the number who voted in the last general election, the signature and resident address of 15 percent of the permanent resident voters in each first class city located within the area of the proposed borough and of 15 percent of the permanent resident voters within the area of the proposed borough but outside of a first class city;

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

(3) for a second class borough, a designation of areawide and nonareawide powers to be exercised.

(c) In addition to requirements set out in (a) of this section, a petition proposing incorporation of a city shall contain

(1) a designation of the powers to be exercised by the city;

(2) for a first class city, the signature and resident address of 50 permanent resident voters in the area of the proposed city or of 15 percent of the permanent resident voters in the area of the proposed city, whichever is greater based on the number who voted in the last general election;

(3) for a second class city, the signature and resident address of 25 permanent resident voters in the area of the proposed city or of 15 percent of the permanent resident voters in the area of the proposed city, whichever is greater, based on the number who voted in the last general election.

Sec. 29.09.070 (29.18.060, 070). REVIEW AND INVESTIGATION.

(a) The department shall review a petition for municipal incorporation and return a deficient petition for correction.

(b) If a petition contains the required information and number of signatures, the department shall investigate the proposal.

(c) After investigation of a proposal, the department shall report its findings and recommendations to the Local Boundary Commission.

(d) The department may combine petitions received from the same general area and treat them as one petition.

Sec. 29.09.080 (29.18.080, 090). HEARING AND DECISION.

(a) Prior to making a decision regarding an incorporation petition, the Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated.

(b) If the Local Boundary Commission determines that a proposed municipality fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed municipality meets the standards for incorporation, it shall accept the petition. If the commission determines that the proposed boundaries can be altered to meet the standards for incorporation, it may alter the boundaries and accept the petition.

(c) The Local Boundary Commission shall immediately notify the lieutenant governor of its acceptance of an ~~incorporation~~ ^{incorporation} petition.

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

Sec. 29.09.110 (29.18.110). INCORPORATION ELECTION.

(a) Within 30 days after notification of acceptance of an ~~incorporation~~ ^{incorporation} petition, the lieutenant governor shall order an election in the proposed municipality to be held not less than 30 nor more than 90 days after the order. The election order must specify the dates during which nomination petitions for election of initial officers may be filed. If the voters

approve incorporation, initial officers are elected in the same election.

(b) An Alaska voter who has been a resident of the area within the proposed municipality for 30 days before the date of the election order may vote.

(c) In an election for incorporation of a first or second class borough, areawide powers included in the incorporation petition are considered part of the incorporation question.

(d) In an election for incorporation of a second class borough, each proposed nonareawide power shall be placed separately on the ballot. A majority vote limited to voters residing outside a city is required for adoption of a nonareawide power.

(d) The lieutenant governor shall supervise the election in the manner prescribed by the Alaska Election Code (AS 15.05~~x~~ - 15.60). The state shall pay all election costs under this section.

Sec. 29.09.120 (29.18.120). ELECTION OF INITIAL OFFICERS.

(a) A nomination for an initial officer is made by petition in the form prescribed by the lieutenant governor and containing:

(1) the name and address of the nominee;

(2) a statement by the nominee that he is qualified for the office he seeks;

(3) to nominate an elected officer, the signature and resident address of 50 voters in the area of the proposed municipality or in the area from which the

officer is to be elected under the composition and apportionment set out in the incorporation petition;

(4) to nominate an officer of a second class city, the signature and resident address of ten voters in the area of the proposed city.

(b) A person may file for and occupy more than one office, but may not serve simultaneously as

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

(2) city mayor and a member of the council of a home rule city;

(3) city mayor and a member of the council of a first class city.

(c) An initial elected municipal officer takes office on the first Monday following certification of his election, unless provided otherwise by the incorporation petition.

(d) Initial elected assembly and council members shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

Sec. 29.09.130 (29.18.130). INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS. (Consider addressing the integration of REAA's under this section, per Lee Sharp's suggestion.)

Sec. 29.09.140 (29.18.140). TRANSITION. (a) A power or duty exercised by a city or service area which is succeeded

to by a newly incorporated borough continues to be exercised by the city or service area until assumed by the borough. A power or duty exercised by a service area which is succeeded to by a newly incorporated city continues to be exercised by the service area until assumed by the city. A newly incorporated municipality shall assume all authorized powers and duties within two years of incorporation. An ordinance, rule, resolution, procedure, and order in effect before assumption of a power or duty by a newly incorporated municipality remains in effect until superseded by the municipality.

(b) Before assuming a power or duty, a newly incorporated municipality shall give written notice of the assumption to the city or service area exercising the power or duty. Officials of the newly incorporated municipality shall consult with officials of the city or service area concerned to arrange an orderly transfer of a power or duty.

(c) After incorporation of a new municipality, no service area within it may assume additional bonded indebtedness, make a contract, or transfer an asset without the consent of the assembly or council.

Sec. 29.09.150 (29.18.150). CHALLENGE OF LEGALITY. A challenge to the formation of a municipality must be made within six months of the date of its incorporation.

Give extra line → NOTE: (1) ~~substantive~~ change in 29.18.070 to eliminate public hearing by ^{the} department since one is held by Local Boundary Commission and ^{the} issue ^{is} decided by election.

) substantive change in 20.18.120(c) to provide for local flexibility "unless provided otherwise by the incorporation petition."

(5) add a definition of "department" and of "nonassessable power" to the definition section.

(add to last page)

(3) substantive change in 29.18.140 intended to address confusion over whether a newly created municipality may succeed a previously incorporated municipality.

(4) 29.17.130 needs to be re-drafted.

5

ARTICLE 2. PROCEDURES

Sec. 29.18.050. PETITION. ~~Municipal incorporation is proposed by filing a petition with the Department of Community and Regional Affairs which includes~~

^{29.09.060}
Sec. ^(a) 29.18.050. PETITION. /Municipal incorporation is proposed by filing with the ^{department} ~~Department of Community and Regional Affairs~~ a petition containing the following information about the proposed municipality:

(1) class;
(2) name;
(3) boundaries
(4) maps, documents, and other information required by the ^{department} ~~Department of Community and Regional Affairs~~;

(5) a proposed municipal budget projecting sources of income and items of expenditure through the first full fiscal year of operation;

(6) ~~[EFFECTIVE UNTIL JANUARY 1, 1981]~~ composition and apportionment of the assembly or council;

~~(7) [EFFECTIVE JANUARY 1, 1981] composition and apportionment of the assembly or council, but the number of members of a borough assembly may not exceed 11.~~

(b) In addition to requirements set out in ~~subsection~~ (a) of this section, a petition proposing incorporation of a borough shall contain the following:

(1) ^{with} the signature and resident address of 15 percent of the permanent resident voters ~~within the~~ ^{of} each first class city located in the area of the proposed borough and 15 percent of the ^{Resident and registered} voters ~~in the~~ ^{with} ~~area/outside/first/class/cities/~~ located in the area of the proposed borough but outside of a first class city, ^{based on the number who voted in the last general election.}

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

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

(c) In addition to requirements set out in ~~subsection~~ (a) of this section, a petition proposing incorporation of a city shall contain ~~the following~~

(1) a designation of the powers ~~proposed~~ to be exercised by the city;

(2) for a first class city, the signature and resident address of 50 permanent resident voters in the ^{area of the} proposed city or of 15 percent of the permanent resident voters in the area of the proposed city, whichever is greater, based on the number who voted ~~in the area~~ in the last general election;

(3) for a second class city, the signature and resident address of 25 permanent resident voters in the area of the proposed city or of 15 percent of the permanent resident voters in the area of the proposed city, whichever is greater, based on the number who voted in the last general election.

29.09.070 (100) AND INVESTIGATION. (a)
Sec. (29.18.060) REVIEW/a The department shall review ~~each~~^a petition for municipal incorporation and return/deficient petition for correction. ~~and completion~~

Sec. 29.18.070. INVESTIGATION. (b) If a petition ~~for municipal incorporation~~ contains the required information and number of signatures, the department shall investigate the proposal. ~~At least one public hearing shall be held in the area proposed for incorporation.~~

(a) The department may combine petitions received from the same general area and treat them as one petition.

29.09.080 (100) HEARINGS AND DECISION. (a) (1) After investigation of a proposal ~~for municipal incorporation~~, the department shall report its findings and recommendations to the Local Boundary Commission. Prior to making a decision regarding ~~the proposal~~, the Local Boundary Commission shall ~~an incorporation petition~~

hold at least one public hearing in the area proposed to be incorporated.

(b) If the Local Boundary Commission determines that a proposed municipality fails to meet the standards for incorporation, it shall reject the petition. If the commission determines that the proposed municipality meets the standards for incorporation, it shall accept the petition. If the commission determines that the proposed boundaries can be altered to meet the standards for incorporation, it may alter the boundaries and accept the petition. of an incorporation petition. lieutenant governor of its acceptance.

(c) The Local Boundary Commission shall immediately notify the

(d) A decision by the Local Boundary Commission under this section may be appealed under the Administrative Procedure Act (AS 14.62).

Sec. ^{29.18.110} (29.18.110) INCORPORATION ELECTION. (a) Within 30 days after

notification ~~by the Local Boundary Commission~~ of acceptance of an incorporation petition, the lieutenant governor shall order an election in the proposed municipality to be held not less than 30 nor ~~more~~ more than 90 days after the order. If the voters approve incorporation, initial officers are elected in the same election. The election order must specify the dates during which nomination petitions for election of initial officers may be filed.

If incorporation is rejected ~~by the voters~~, no officers are elected.

An Alaska

(b) A voter who has been a resident of the area within the proposed municipality for 30 days before the date of the election order may vote.

(c) In an election for incorporation of a ^{first or second class} borough, areawide powers included in the incorporation petition are considered part of the incorporation question.

(d) In an election for incorporation of a second class borough, ^{proposed nonareawide} ~~each power to be exercised outside cities only~~ shall be placed separately on the ballot. ~~Adoption of a nonareawide power requires~~ ^{majority vote} and the vote is limited to voters residing outside a city ^{is required for adoption of a nonareawide power.}

(e) The lieutenant governor shall supervise the election in the manner prescribed by the Alaska Election Code (AS 15.05-15.60). The state shall pay all election costs under this section.

29.09.120

Sec. ^A(29.18.120). ELECTION OF INITIAL OFFICERS. (a) /nomination for an initial officer is made by petition in the form prescribed by the lieutenant governor and containing:

- (1) the name and address of the nominee;
- (2) a statement by the nominee that he is qualified for the office he seeks;
- (3) to nominate an elected officer, the signature and resident address of 50 voters in the area of the proposed municipality or in the area from which the officer is to be elected under the composition and apportionment set out in the incorporation petition;
- (4) to nominate an officer of a second class city, the signature and resident address of 10 voters in the area of the proposed city.

→ (b) A person may file for and occupy more than one office, but may not serve simultaneously as ⁽¹⁾ borough mayor and ~~as~~ a member of the assembly, ⁽²⁾ or as city mayor and ~~as~~ a member of the council of a home rule city; ~~or first class city.~~ ^{(3) city mayor and a member of the council of a first class city.}

(c) An initial elected municipal officer takes office on the first Monday following certification of his election, unless provided otherwise by the incorporation petition.

~~(c) // The // Lieute~~

(d) ~~The~~ Initial elected assembly and council members shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected.

29.09.130
Sec. (29.18.130). INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS. (Consider addressing the integration of REAA's under this section, per Lee Sharp's suggestion.)

29.09.140
Sec. (29.18.140). TRANSITION. (a) ~~The~~ ^A power ~~and~~ ^{or} duties exercised by

a city or service area which ¹⁵ ~~are~~ succeeded to by a newly incorporated borough continues to be exercised by the city or service area until assumed by the borough. ²⁵ A power and duty exercised by a service area which ~~are~~ ^{is} succeeded to by a newly incorporated city continues to be exercised by the service area until assumed by the city. A newly incorporated municipality shall assume all authorized powers and duties within two years of incorporation. ^{AN} Ordinances, rules, resolutions, procedures, and orders in effect before assumption of a power or duty by a newly incorporated municipality remain in effect until superseded by the municipality.

Before assuming a power or duty, a

(b) A newly incorporated municipality shall give written notice of ^{the} its assumption of ~~a power or duty~~ to the city or service area exercising the power or duty. Officials of the newly incorporated municipality shall consult with officials of the city or service area concerned, ^{to} and arrange an orderly transfer of a power or duty.

(c) After incorporation of a new municipality, no service area within it may assume additional bonded indebtedness, make any contract, or transfer an asset without the consent of the assembly or council.

^{29.09-150}
Sec. ¹ (29.18.150). CHALLENGE OF LEGALITY. A challenge to the formation of a municipality must be made within six months of the date of its incorporation.

(1) Substantive change in 29.18.070 to eliminate public hearing by department since one is held by local Board of Commissioners and issue decided by election. (to provide for local flexibility)

Note: (2) Substantive change in 29.18.120 (c) "unless provided otherwise by the incorporation petition."

(3) Substantive change in 29.18.140 intended to address confusion over whether a newly created municipality may succeed a previously incorporated municipality.

(4) 29.18.130 needs to be re-drafted.

ARTICLE 2. RECLASSIFICATION OF A SECOND CLASS
CITY, A SECOND CLASS BOROUGH, A THIRD CLASS BOROUGH

Sec. 29.06.040 (29.08.040). RECLASSIFICATION OF A SECOND CLASS CITY. (a) If the department determines that the population of a second class city has reached 400 permanent residents, the city may be reclassified as a first class city by holding an election on the question initiated by

(1) petition filed with the council and signed by a number of voters equal to at least 15 per cent of the votes cast in the city at the preceding regular election; or

(2) proposal of the council.

(b) The council shall hold at least one public hearing within the city on the question of reclassification. After a hearing the council shall evaluate the ability of the city to assume first class status and shall make its findings public.

(c) Within 30 days after its findings have been made public, the council shall order an election on the question of reclassification. The election shall be held at least 30 days after the order, but not later than the next regular election which occurs 30 days after the order. If more than one question is to be voted on, each shall appear separately on the ballot.

(d) The council shall certify the election results to the department. If the majority vote is favorable, the city is reclassified to a first class status 30 days after certification of the results.

Sec. 29.06.050 (New). RECLASSIFICATION OF A SECOND CLASS BOROUGH. (a) A second class borough may be reclassified as a first or third class borough in the manner provided by AS 29.36.110 - 29.36.130 (29.33.270 - 29.33.290) for the addition of a power, except the petition or proposal shall request reclassification.

(b) During an election on reclassification of a second class borough to third class status, voters shall elect an assembly to serve as the combined assembly and school board if reclassification is approved. The effective date of reclassification to third class status is the first day of the borough's fiscal year which begins at least six months after the date on which the reclassification has been approved by the voters.

Sec. 29.06.060 (New). RECLASSIFICATION OF A THRID CLASS BOROUGH. (a) A third class borough may be reclassified as a first or second class borough in the manner provided by AS 29.36.110 - 29.36¹³⁰ (29.33.270 - 29.33.290) for the addition of a power by a first or second class borough, except the petition or proposal shall request reclassification.

(b) During an election on reclassification of a third class borough, voters shall vote also on whether the borough upon reclassification shall retain a combined assembly and school board or adopt a separate assembly and board. Upon voter approval of reclassification, if a majority vote favors retention of the combined assembly and school board, the assembly serving at the time of the election shall continue to serve as the assembly and board as provided before reclassification. If a majority vote favors a separate assembly and school board, a board shall be elected in accordance with AS 14.12 at the next regular election which occurs within 90 days of the reclassification election or at

a special election held within 90 days of the re-classification election. Expiration of the term of a member of the board elected at a special election shall coincide with the date of the regular election. Until a school board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.08.050. TRANSITION. (Repeal)

~~Sec. 29.08.040. RECLASSIFICATION OF A SECOND CLASS CITY. (a) A second class city may be reclassified as a first class city by holding an election on the question if the Department of Community and Regional Affairs determines that the population of the city has reached 400 permanent residents.~~

ARTICLE 2. RECLASSIFICATION OF A SECOND CLASS CITY, A SECOND CLASS BOROUGH, A THIRD CLASS BOROUGH
789.06.040
Sec. (29.08.040) RECLASSIFICATION OF A SECOND CLASS CITY. (a) If

~~department~~
the Department of Community and Regional Affairs determines that the population of a second class city has reached 400 permanent residents, the city may be reclassified as a first class city by holding an election on the question initiated by

- filed with the council and
- (1) petition/signed by a number of voters equal to at least 15 per cent of the votes cast in the city at the preceding regular election; or
 - (2) proposal of the council.

(b) The council shall hold at least one public ^{e.} hearing within the city on the question of reclassification. ~~Then it~~ ^{After the hearing the council} shall evaluate the ability of the city to assume first class status and ^{shall} make its findings public.

(c) Within 30 days after its findings have been made public, the council shall order an election on the question of reclassification. The election shall be held at least 30 days after the order, but not later than the next regular election ^{which occurs} ~~held after~~ 30 days after the order. If more than one question is to be voted on, each shall appear separately on the ballot.

(d) The council shall certify the election results to the ~~Department of Community and Regional Affairs~~ ^{department}. If the majority vote is favorable, the city ^{is} ~~shall be~~ reclassified to first class status 30 days after certification of the results.

29.06.050
Sec. (New). RECLASSIFICATION OF A SECOND CLASS BOROUGH. (a) A second class borough may be reclassified as a first or third class borough in the manner provided by AS ^{29.36.110 - 29.36.130} (29.33.270 - 29.33.290) for the addition of a power, by a borough

except the petition or proposal shall request reclassification, ~~rather than the addition of a power.~~

(b) During an election on reclassification of a second class borough to third class status, voters shall elect an assembly to serve as the combined assembly and school board if reclassification is approved. The effective date of reclassification to third class status is the first day of the borough's fiscal year which begins at least six months after the date on which the reclassification has been approved by the voters.

Sec. ^{29.06.060} (New). RECLASSIFICATION OF A THIRD CLASS BOROUGH. (a) A third class borough may be reclassified as a first or second class borough in the manner provided by AS ^{29.36.110 - 29.36.130} (29.33.270-29.33.290) for the addition of a power by a first or second class borough, except the petition or proposal shall request reclassification, ~~rather than the addition of a power.~~

(b) During an election on reclassification of a third class borough, voters shall vote also on whether the borough ~~shall~~ upon reclassification ^{shall} retain a combined assembly and school board or adopt a separate assembly and board. ^{upon voter approval of reclassification} If a majority vote favors retention of the combined assembly and school board, the assembly serving at the time of the election shall continue to serve as the assembly and board ^{upon voter approval} of reclassification (as provided before reclassification). If a majority vote favors a separate assembly and school board, a board shall be elected in accordance with AS 14.12 at the next regular election which occurs within 90 days of the reclassification election or at a special ^{the} election held within 90 days of reclassification election. Expiration of the term of a member of the board elected at a special election shall coincide with the date of the regular election. Until a school board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.08.050. TRANSITION. (Repeal)

SUGGESTED DRAFTING CHANGES TO TITLE 29 - Cook, 17 Sep 80

Article New.

Eminent Domain (in II)

Sec. New.

Eminent Domain and Declaration of Taking.

A home rule or general law municipality may exercise the [POWERS] power of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250 - 09.55.460. Before exercising the power, a second class city must comply with additional requirements under AS 29.73.020.

Sec. 29.73.020. (in III) Eminent domain in a second class city.
(IN THE CASE OF A SECOND CLASS CITY, BEFORE] Before exercising the power of eminent domain and declaration of taking, the council of a second class city shall request the Department of Community and Regional Affairs for permission to exercise the power[.] and the council may not exercise the power [OF EMINENT DOMAIN OR DECLARATION OF TAKING] without [THE] formal approval. [OF THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS.]
The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the [QUALIFIED] voters at the next [REGULARLY SCHEDULED GENERAL] regular election or special election called for that purpose. A majority [OF THE QUALIFIED VOTERS VOTING ON THE QUESTION] vote is required for approval of the ordinance.

SUGGESTED DRAFTING CHANGES TO TITLE 29 - Cook, 16 Sep 80

Chapter New School Boards
[ARTICLE 5. SCHOOL BOARDS]

Sec. New. School Boards. Each borough and city school district has a school board.

Sec. 29.23.310. Election in cities, first and second class boroughs. [EACH BOROUGH AND CITY SCHOOL DISTRICT HAS A SCHOOL BOARD.] Members of the school board in city, first and second class borough school districts are elected at the regular election [HELD ANNUALLY ON THE FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT ELECTION DATE OR INTERVAL OF YEARS IS PROVIDED BY ORDINANCE,] for three-year terms and until their successors take office. All board members are elected at large, but school zones for the election of borough school boards may be established, altered, or abolished [AS PROVIDED BY SEC. 100 OF THIS CHAPTER].

Sec. 29.41.020 Assembly to serve as school board for third class boroughs. The borough assembly is the school board for third class boroughs. The borough ^{mayor} executive is the [PRESIDING OFFICER OF THE BOROUGH ASSEMBLY AND] president of the school board. While acting as president of the school board he [THE BOROUGH EXECUTIVE] has all the powers of a borough executive except for the veto power.

*Not submitted to Policy group
based upon re-organization
Draft #1 for information which
was submitted by Working Group*

SUGGESTED DRAFTING CHANGES TO TITLE 29 - Cook, 17 Sep 80

Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property is exempt from general taxation:

(1) municipal, state, or federal property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(2) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes including the following property owned by a religious organization:

INDENT → (A) a structure, its fixtures and furniture used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(B) the residence of a bishop, pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(C) a lot supporting and adjacent to a structure set out in (A) or (B) of this paragraph which is necessary to use of the structure;

(D) a lot required by ordinance for parking near a structure set in (A) of this paragraph;

(3) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of the organization;

(4) household furniture of the head of a family or householder not exceeding \$500 in value;

(5) money on deposit;

(6) inventories located within a foreign trade zone established under AS 45.77.010, before those inventories are cleared by the United States Customs Service and admitted into domestic commerce.

(7) subject to (e) of this section, real property owned and occupied as a permanent place of abode by a resident 65 years of age or older, including a mobile home whether classified as real or personal property for municipal tax purposes;

(8) subject to (f) of this section, a structure containing a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure.

(b) Property described in (a) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(c) Property exempted from execution under the Code of Civil Procedure (AS 09) is not exempt from taxes levied and collected by municipalities.

(d) An exemption may not be granted except upon written application on a form prescribed by the state assessor for use by local assessors. A claimant must file the application no later than January 15 of the assessment year for which the exemption is sought, but during that year the governing body of the municipality for good cause may waive the claimant's failure to make timely application for the exemption and authorize the assessor to accept the application. If an application is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. If failure to file by January 15 of the assessment year is waived and the application is approved, the amount of tax which a claimant may have already paid for the assessment year for property exempted shall be refunded. The assessor may require proof at any time of the right to and amount of an exemption claimed. A claimant must file a separate application for each assessment year in which an exemption is sought.

(e) Real property which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption under (a)(7) of this section may not be exempted. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570. The state shall reimburse a borough or city for the

real property tax revenues lost to it by the operation of (a)(7) of this section. However, the reimbursement will be made only to the extent that revenue lost exceeds an exemption which was granted by the borough or city or which, upon application, would have been granted under AS 29.53.025(a).

(f) The exemption granted by (a)(8) of this section is limited to:

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

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

Not sent

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH # STATE CAPITOL
JUNEAU ALASKA 99801
907 465 3800

MEMORANDUM

September 25, 1980

SUBJECT: Proposed drafting change
TO: Advisory Policy Committee -
Title 29 Revision
FROM: Tamara Brandt Cook
Legislative Counsel

This is a proposed technical revision of AS 29.53.020 dealing with exemptions from property taxation but containing no important substantive legal changes. However, I wish to alert you to two changes which may have some substantive impact.

AS 29.53.020(e) currently contains the language

Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall between or among themselves which shall receive the benefit of the exemption.

This sentence has been in subsection (e) since 1972, but its meaning is unclear. I checked with Mr. Lee Sharp, Municipal Attorney for Juneau, and Mr. Terry Early, State Assessor regarding the meaning of this provision. Both of them agreed with me that the section is unclear and Mr. Early advised me to check with an assessor to see how it has been applied in the field. I contacted Mr. Bob Howe, Juneau assessor, and he informed me that the sentence in question has been ignored as a practical matter. I also checked with the Department of Revenue and was informed that they rely upon information supplied by the boroughs in determining the amount of the state rebate, and therefore have not been interpreting this sentence themselves. Consequently, I have deleted this sentence from this draft.

In addition, I have deleted the subsection currently appearing as (h).

Except as provided in (g) of this section, nothing in (e) - (i) of this section effect similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from granting similar exemptions by ordinances as provided section 25 of this chapter.

I have omitted this subsection because it appears to be superfluous.

Lastly, I would like to draw your attention to the current subsection (c)

Property described (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital or education groups for classroom space. (Emphasis added).

If the policy behind allowing a tax exemption for property used by nonprofit organizations is to encourage people to rent their property to those organizations, why limit the use which can be made of the property by the nonprofit organizations? I would recommend that the Committee consider either (1) not allowing an exemption for property from which income is derived at all; or (2) eliminating the language "for classroom space".

Please let me know of any changes which you would like me to make in this draft.

TBC:ljb

Enclosure

Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property is exempt from the property tax:

(1) municipal, state, or federal property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(2) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes including the following property owned by a religious organization:

(A) a structure, its fixtures and furniture used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(B) the residence of a bishop, pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(C) a lot supporting and adjacent to a structure set out in (A) or (B) of this paragraph which is necessary to use of the structure;

(D) a lot required by ordinance for parking near a structure set in (A) of this paragraph;

(3) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of the organization;

(4) household furniture of the head of a family or householder not exceeding \$500 in value;

(5) money on deposit;

(6) inventories located within a foreign trade zone established under AS 45.77.010, before those inventories are cleared by the United States Customs Service and admitted into domestic commerce;

(7) the real property owned and occupied as a permanent place of abode by a resident 65 years of age or older, including a mobile home whether classified as real or personal property for municipal tax purposes; and

(8) a structure containing a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure.

(b) Property described in (a) of this section from which income is derived is exempt only if that income is

solely from use of the property by a nonprofit religious, charitable, hospital, or educational group for classroom space.

(c) Property exempted from execution under the Code of Civil Procedure (AS 09) is not exempt from municipal taxes.

(d) An exemption may not be granted except upon written application on a form prescribed by the state assessor for use by local assessors. A claimant must file the application no later than January 15th of the assessment year for which the exemption is sought, but during that year the governing body of the municipality for good cause may waive the claimant's failure to make timely application for the exemption and authorize the assessor to accept the application. If an application is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. If failure to file by January 15th of the assessment year is waived and the application is approved, the amount of tax which a claimant may have already paid for the assessment year for property exempted shall be refunded. The assessor may require proof at any time of the right to and amount of an exemption claimed. A claimant must file a separate application for each assessment year in which an exemption is sought.

(e) Real property which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption under (a)(7) of this section may not be exempted.