

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

751 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 20.30.095. APPLICATION FOR PETITION. (a) An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by at least ten municipal voters who will sponsor the petition, shall contain the address to which all correspondence relating to the application may be sent and shall be filed with the municipal clerk. Within two weeks the clerk shall certify the application if he finds that it is in proper form, and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.30.090;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would not be unenforceable as a matter of law.

(b) A decision by the clerk on an application for petition shall be subject to judicial review.

EXPLANATION: This section is new. The first part is modeled after section 2 of the initiative article in the state constitution. As drafted, the section would require the clerk to review an initiative for substantive legality, with his decision subject to appeal. This would allow for a judicial determination of the legality of an initiative prior to incurring the expense of an election.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.110. PETITION. (a) Within two weeks after certification of an application for petition, a petition shall be prepared by the municipal clerk. The petition shall

(1) contain a summary of the bill to be initiated or the act to be referred;

(2) set out fully the ordinance or resolution sought to be initiated or referred;

(3) state the date on which the petition is issued by the clerk;

(4) contain notice that signatures must be secured within 60 days of the date the petition is issued;

(5) contain spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer;

(6) contain a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, that each signer had an opportunity before signing to read the petition, that he believes each signer to be a municipal voter, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section would require the clerk to provide the petition forms to the petitioners to insure that they are complete and legible. This is similar to the requirement imposed upon the Lieutenant Governor in state initiative proceedings. The petition contents are essentially the same as those provided in present law, with a shortening of the petition circulation time from 90 to 60 days, some expansion of the information the signers must provide, and the addition of the circulator's affidavit.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.120. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 60 days of the date the clerk issues the petition. The statement provided under AS 29.30.110 (a)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) A petition shall be signed by a number of voters residing within the municipality based on the number of votes cast at the last regular municipal election held on or prior to the date the petition was issued equal to

(1) 25 percent, when a municipality has fewer than 7,500 persons; or

(2) 15 percent, when a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION: This section carries forward the 60 day signature gathering period. It does not eliminate the possibility of an initiative or referendum on a matter which affects only a service area, but it does require that such petitions contain the same number of signatures as a petition on an areawide matter. Permitting a service area to initiate and vote on a matter on a service area basis is contrary to the concept of the service area being under the control of the entire legislative body, and service areas will then have the authority to become essentially autonomous units of government. Changes have been made to require rejection of a signature not accompanied by a legible residence address and to allow a signer to withdraw his name up until the time the petition is certified, whereas now he must withdraw within seven days after the petition is filed.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) The pages of a petition shall be assembled and filed as a single instrument. Within ten days of the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be amended or supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

(3) Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: The only significant change makes it clear that in providing supplementary signatures, the sponsors have only ten days to gather the signatures and may not use signatures which were gathered prior to the first filing but not submitted, and that they may not use signatures gathered during the period in which the clerk is checking the petition.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.140. PROTEST. Repeal

EXPLANATION: Since the clerk determines the sufficiency of a petition, it was felt that allowing a protest to the municipal executive when a petition is rejected to be considered by the assembly or council would serve no purpose. The assembly or council would simply rely upon the clerk, since he has the voter registration records.

Sec. 29.30.150. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new application for a petition on substantially the same matter may not be filed sooner than six months after the petition is rejected.

EXPLANATION: This section was changed slightly to take into account the application procedure and to clarify that a new petition may not be filed dealing with the same matter, but that a petition on a different matter may be filed sooner than the six month period.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) When a petition seeks enactment of an ordinance or resolution within the powers of the assembly or council the clerk, after certifying it, shall present it to the assembly or council at its next regular meeting or special meeting called for that purpose.

(b) Unless substantially the same measure is adopted, an initiative measure presented to the assembly or council shall be submitted to the voters at the next regular municipal election held more than 45 days after the measure was presented to the assembly or council. If the assembly or council adopts substantially the same measure and if it is not vetoed, the petition is void and the question shall not be submitted to the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election but may be summarized on the ballot to indicate clearly the proposal submitted.

EXPLANATION: The changes allow for the submission of a measure at any time of the year, but provides it would be placed before the voters at the first regular election occurring 45 days after submission to the assembly or council. Since the clerk determines whether the subject is within the restrictions and since this determination is subject to judicial review, the assembly or council no longer makes that determination. This section requires an areawide vote whether the matter is areawide or nonareawide because a service area should not be allowed to become autonomous.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.170. PRESENTATION OF REFERENDUM. (a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the clerk shall submit the matter to the voters at the next regular or special election. If no regular or special election occurs within 75 days of the certification of a petition, the assembly or council shall hold a special election within 75 days of filing.

(b) If a petition for referendum is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the assembly or council may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the assembly or council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it is suspended, becomes immediately effective.

EXPLANATION: The ability to suspend an ordinance or resolution which had taken effect when a petition is filed within 20 days of the passage of the ordinance or resolution has been deleted to avoid the apparent ability of a part of the voters to exercise a temporary repeal. The reference to amending a charter by initiative or referendum was deleted as it is covered under AS 29.13.080. This section once again requires submission of the question to the areawide voters.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.180. EFFECT. (a) An ordinance or resolution adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed may not be repealed or amended by the assembly or council within two years of its effective date.

(b) If an ordinance or resolution is repealed in an referendum election or by the assembly or council after a petition which contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the assembly or council for a period of one year.

(c) An unsuccessful initiative or referendum precludes the filing of a new petition application for substantially the same measure sooner than six months after the election results are certified by the assembly or council.

EXPLANATION: Technical revisions and a change in (c) to accommodate the petition application process.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.210. RECALL. An application for a petition for the recall of a mayor or a member of the assembly, council, or school board may be filed with the municipal clerk after the official has served six months of the term for which elected or appointed.

EXPLANATION. This section lists the municipal officials which may be recalled rather than providing for the recall of an elected official in order to avoid the possibility of recalling service area board members who may be elected officials. It clarifies the dates to be used in determining when the six month period has run and includes the possibility of recalling officials who are appointed to elected positions.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.220. GROUND. Grounds for recall may include any grounds which constitute failure to perform official duties to the satisfaction of petitioners.

EXPLANATION: This section broadens the grounds for recall in order to avoid forcing petitions to name a ground in a petition which has no connection with the real reasons which may inspire a recall effort. It is felt that an elected official ought not to be subjected to being labeled incompetent or guilty of misconduct or failure to perform his duties in a petition when the reason for a recall effort may not be based on any of those things.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.225. APPLICATION FOR RECALL PETITION. An application for a recall petition shall contain

(1) the signature and residence address of at least ten voters who will sponsor the petition;

(2) the address to which all correspondence relating to the application may be sent;

(3) a statement in 200 words or less of the grounds of the recall stated with particularity as to specific actions, pertinent ordinances, laws, regulations, or judicial decrees.

EXPLANATION: This section requires a submission of an application to the clerk for a recall petition. The clerk will provide petition forms and the application procedure is necessary in order to allow the official sought to be recalled to be given an opportunity to have his statement included on the petition.

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.230, he shall submit a copy of the application to the official who is the subject of the application. The official shall have ten days from receipt of the application to provide the clerk with a statement of 200 words or less if he so chooses.

(b) The clerk shall prepare a recall petition containing
(1) the name of the official sought to be recalled;
(2) The statement of the grounds for recall as set forth in the application;

(3) if provided, the statement of the official sought to be recalled;

(4) the date the petition is issued by the clerk;

(5) notice that signatures must be secured within 30 days of the date the petition is issued;

(6) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer;

(7) a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, that each signer had an opportunity before signing to read the petition, that he believes each signer to be a municipal voter, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(c) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section sets forth requirements similar to those proposed under the initiative and referendum procedures as it relates to petition content. Requiring the clerk to prepare the petition insures that it is complete and legible. The period of time within which signatures must be collected has been reduced to 30 days to minimize the period of disruption in government created by a recall effort.

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 30 days of the date the clerk issues the petition. The statement provided under AS 29.30.240(b)(7) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by 35 percent of the voters residing within the municipality based on the number of votes cast at the last regular election for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by 35 percent of the voters residing within the district based on the number of votes cast at the last regular election for that office.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION: This section continues the 30 day signature gathering period and clarifies which election is to be used as a standard for determining the number of signatures required. The number of signatures required has been increased as compared to the number required for initiative and referendum because it is felt that recall is an especially disruptive process which should be more difficult to initiate. However, the signature requirement is based on the number who voted in a municipal rather than a state election. It is expected that this number will reflect a relatively low turnout, and therefore that it is not as difficult a requirement as may appear.

Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The pages of a petition shall be assembled and filed as a single instrument. Within ten days of the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be amended or supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition which is insufficient on its face may not be supplemented. It shall be rejected and filed as a public record.

(c) Within ten days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: Unlike the situation in initiative and recall, this section does not allow additional time for obtaining signatures when a petition is filed which does not have enough signatures even before any are disqualified. This keeps a petitioner from filing an insufficient petition to gain additional time to gather signatures. Once again, it is felt that in the case of a recall effort, the process ought not to be prolonged.

Sec. 29.30.260. NEW PETITION. The rejection of a petition for any reason does not preclude the filing of a new recall petition. However, a new application may not be filed sooner than six months after a petition is rejected.

EXPLANATION: Filing a new petition prior to the six month waiting period is prohibited even though the petition is rejected for a reason other than failure to obtain sufficient signatures. Under existing law, failure to obtain sufficient signatures alone triggers the waiting period.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.270. SUBMISSION. If a recall petition is sufficient, the clerk shall submit it to the assembly or council at its next regular meeting.

EXPLANATION: This section requires the clerk to submit the petition at the next regular meeting rather than immediately as required under existing law.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days, but not sooner than 40 days after submission of the petition to the assembly or council, 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 but not sooner than 40 days after a petition is submitted to the assembly or council.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the petition shall not be submitted to the voters. The assembly or council may not appoint the official who resigns from an office after a sufficient recall petition is filed naming him to the same office.

EXPLANATION: The 40 days requirement was added to insure that a petition submitted after the legal notices of a regular election were published would not complicate the election. Added in section (c) is the prohibition against the appointment of an official who resigns after a sufficient recall petition is filed.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.290. FORM OF RECALL BALLOT. A recall ballot shall contain

(1) the grounds as stated in 200 words or less on the recall petition;

(2) the statement of the official which appeared on the recall petition or a statement of 200 words or less which 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 ()".

EXPLANATION: This section makes reference to the fact that the statement of the grounds is limited to 200 words or less and provides that the statement of the official used on the petition will appear on the ballot unless the official provides a different statement.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.300. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular municipal election if the question is submitted at a regular election. Procedures for conducting a recall election are those of a special election if the question is submitted at a special election, except that 20 days notice shall be given notwithstanding an ordinance or charter provision to the contrary.

EXPLANATION: This section was changed to provide for cases in which a recall election is held as a special election.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.310. MAJORITY REQUIRED. A majority vote is required to recall an official. Only those voters residing in the district or area which elects an official may vote on the recall of the official.

EXPLANATION: This section adds a new sentence which makes it clear that if an official is elected by the voters of a district, then only those voters may vote to recall him.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.320. EFFECT. If a majority votes to recall an official, the official's seat shall become vacant immediately upon certification of the result of the election. If an incumbent is not recalled at a recall election, an new application for a petition to recall the same incumbent may not be filed sooner than six months after the date the election is certified.

EXPLANATION: The first sentence was added to make it clear when a recalled official loses his seat. The second sentence clarifies the fact that the commencement of the six month period is the date of certification of the election results.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.330. SUCCESSIONS. (a) If one or more officials is recalled from an assembly or council, the assembly or council, by the affirmative vote of a majority of the remaining members, may appoint a qualified person to fill a vacancy created by the recall.

(b) If all members of the assembly or council are recalled, the governor shall appoint at least three qualified persons to the assembly or council. The appointees shall, by an affirmative vote of the majority, appoint additional members to fill remaining vacancies.

(c) If one or more officials are recalled from a school board the assembly or council may appoint a qualified person to fill a vacancy created by the recall.

(d) A person appointed under (a) - (c) of this section shall serve until a successor is elected and takes office.

EXPLANATION: This section has been expanded to prevent a local government from having to attempt to operate without a quorum of elected officials.

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

NOTICE OF CHANGES

27 OCTOBER 1980

The Title 29 Revision Commission Policy Advisory Group meeting was scheduled for 9:00 a.m., Monday 10 November 1980 in the Chena Room of the Traveler's Inn, Fairbanks.

The time of the meeting has been changed to 10:00 a.m. to accommodate airline scheduling. The place of the meeting has been changed from the Chena Room of the Traveler's Inn to the East Gold Room of the Traveler's Inn.

maf



Let Town to make available to
Committee a/

October 21, 1980

Senator Arliss Sturgulewski
Alaska State Senate
2957 Sheldon Jackson St.
Anchorage, AK 99504

Dear Senator Sturgulewski:

I am writing to you in your capacity as a member of the policy advisory group for the rewrite of Title 29. In that regard, several weeks previous the Kodiak City Council directed me to determine the level of interest among the home rule communities located within second class boroughs toward addressing the dual responsibilities of those governments. I have enclosed for your review a copy of the letter received back from the City of Palmer voicing their support for a coalition at the Alaska Municipal League to address these problem areas.

I understand that in your capacity on this advisory group board your input would be balanced by those representatives of boroughs who are also on the panel. However, your background in local government management provides a knowledge of the parameters of the problem we are trying to address.

As Mr. Curtis, Manager of Palmer, indicates in his correspondence, communities such as Anchorage, Juneau and Sitka have within these past several years resolved their dual government relationship problems by unifying. This is of course not the only answer. For many of the smaller communities the problem still remains. We would hope that you will be able to assist us by providing some input to your advisory group relative to our concerns. The communities will be requested to meet during the Alaska Municipal League to formulate specific ideas toward the end of clearly

Senator Arliss Sturgulewski

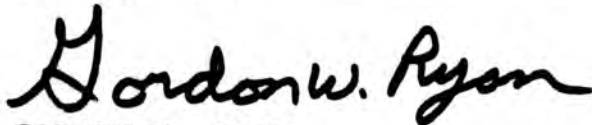
Page 2

October 21, 1980

defining the relationship between home rule cities and second class boroughs. I will keep you advised of the progress of our coalition and wish to offer at this time our appreciation for your concern and interest in our problem.

Respectfully yours,

CITY OF KODIAK

A handwritten signature in cursive script that reads "Gordon W. Ryan". The signature is written in dark ink and is positioned above the printed name and title.

GORDON W. RYAN
City Manager

GWR/yb

Enclosures

cc: Palmer McCarter, Local Government Assistance



THE HEART OF THE NATANUSKA VALLEY

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT
P.O. BOX 1368 • PHONE (907) 745-3271
PALMER, ALASKA 99645

10/22/80

October 17, 1980

Mr. Gordon W. Ryan
City Manager
City of Kodiak
P.O. Box 1397
Kodiak, Alaska 99615

Dear Gordon,

Your letter of September 17, 1980 was received and presented to the Council at their regular meeting of October 14, 1980. I would like to report that our Council wholeheartedly supports your initiatives in this matter of first class and home rule cities within second class boroughs. We are all aware of the gradual erosion of authority away from cities toward boroughs and will enthusiastically join with you and hopefully the other cities in this endeavor.

I will not in this letter attempt to get into specifics of problem areas in Title 29 but would like to suggest a formation of the coalition and the outright commitment of the individual cities involved to put some time and effort into this. Apparently the timeframe is extremely short as the Commission must have a document prepared and presented to the Legislature within the first thirty days of the new Legislative session. If the formation takes place at the AML meeting in November at Fairbanks, there will not be many days left. It would seem that if each city would appoint a person of knowledge and experience, i.e. manager, attorney, clerk, to attend one or two general meetings we could pick out specifics for rewrite and the writing of the new legislation and perhaps prepare resolutions for the adoption by the Council of the various communities as back-up and forward these a.s.a.p. to the Policy Advisory group. We would then have to be prepared to have a representative to care for them to defend our positions. This will not be an easy thing.

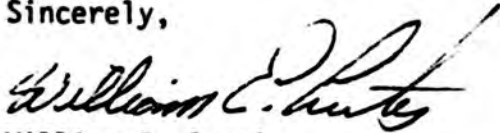
I think our Councils must understand that we have lost most of the support from the population areas, particularly Anchorage, which has half of the votes in the State of Alaska, along with Juneau and Sitka who have solved their problems by unification. This was not done without bitter struggles between their original cities and boroughs. In other words, the problems still exist for the remainder of us and I personally do not feel that unification is the solution to all of the problems. A further point to emphasize is that the Alaska Municipal League is severely watered down with boroughs and unified governments to where we cannot expect much support.

Mr. Gordon W. Ryan
October 17, 1980
Page 2

I will attempt to help expedite our feelings by sending a copy of this letter to each of the cities you have indicated correspondence with in your letter.

Looking forward to seeing you soon, I remain,

Sincerely,



William E. Curtis
City Manager
City of Palmer

WEC/car

cc: City of Ketchikan
City of Fairbanks
City of Kenai
City of Seward
City of North Pole

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

24 October 1980

TO: Technical Committee
Title 29 Revision Commission

FROM: Tamara Brandt Cook *TBC*
Legal Services

SUBJECT: Changes Recommended to Title 29 by the
Technical Committee

Attached you will find the first batch of the drafting changes which are, hopefully, accurate reflections of the drafts agreed to by the Technical Committee. If you get the opportunity to check these over, I would appreciate it. Take an especially close look at the explanations, since these will form the basis of a memo I prepared to justify these changes to the Policy Group.

Please send me any recommendations for improvements to either the drafts themselves or to the explanations, or I can be reached by phone at 465-4996 November 5th, 6th, and 7th. I will send you the other drafts as rapidly as they are completed.

maf

Attachments

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.06.010. HOME RULE. A home rule municipality is a municipal corporation and a political subdivision. It is a city of the first class or an organized borough which has adopted a home rule charter, or it is a municipality unified in accordance with AS 29.12.190 - 29.12.350. A home rule municipality has all legislative powers not prohibited by law or charter.

EXPLANATION: A reference to unified municipalities along with a cross-reference to provisions dealing with the organization of unified municipalities has been included so that this section will provide a complete definition of home rule. No substantive change.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.06.050. Repeal

EXPLANATION: This section deals with the transition period following the 1972 revision of the Municipal Code and is of no effect. The reclassification of municipalities to conform to provisions of the 1972 Code were to have been essentially completed within two years of September 10, 1972.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.09.180. ORGANIZATION GRANTS. (a) For the purpose of defraying the cost of transition to a municipal form of government and in order to provide for initial government operations, each municipality incorporated after January 1, 1981, or, for a second class city, reclassified after January 1, 1981 is entitled to an organization grant of \$150,000, except that a municipality which is merged, consolidated, or unified under AS 29.12. is not entitled to an organization grant.

EXPLANATION: Since no new municipality formed is likely to contain a great enough population to qualify for a grant over the minimum, the provision tying population to the amount of the grant has been eliminated in favor of a flat amount. The amount of the grant has been raised from \$25,000 to \$150,000 in recognition of the fact that setting up a government has become an expensive proposition and to encourage the formation of local governments despite this expense. In addition, a second class city will qualify to receive that grant as well as a city within an organized borough, whereas the existing law ties the amount of a grant to a second class city and to a first class city in an organized borough to its population. This change encourages the formation of local governments in rural areas where the population may be small. The formation of a city is expensive regardless of the size of the population. It is felt that the grant should be used to cover any initial government operation, so the terms "development and interim" were eliminated as unduly restrictive. The increased grant will be available only to a municipality formed after January 1, 1981.

Sec. 29.12.260. COMPOSITION OF CHARTER COMMISSION.

(b) If at least one nomination of a qualified charter commission candidate is not filed in accordance with AS 29.12.240. for each available seat the resolution or petition for unification is void and no election on the question of unification shall be held.

EXPLANATION: Subsection (b) has been added to avoid the expense and inconvenience of an election on unification where there is not enough interest in the question to assure that a charter commission can be formed. An alternative would be to provide for appointment of members when not enough nominations are received, but it was felt that in such cases basic interest in unification was probably lacking so the process should be halted.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.15.020. NOMINATION.

(b) A nomination petition shall be filed with the borough or city clerk on or before a date to be fixed by the borough assembly or city council. If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and no election on the question shall be held.

EXPLANATION: Subsection (b) has been added to avoid the expense and inconvenience of an election on the question of forming a charter commission if not enough nominations for commission members are received. An alternative would be to provide for appointment of members in such cases but it was felt that failure to nominate a sufficient number of commission candidates indicated a general lack of interest in the formation of a charter commission.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.15.050. INITIATIVE AND REFERENDUM. (a) A municipal charter shall provide procedures for initiative and referendum.

EXPLANATION: This is technical clean-up creating no substantive change in existing law. However, it has been argued that the phrase "charters shall provide the procedures" refers to the procedures set out in Title 29 applicable to general law municipalities. Consequently, "the" has been dropped in order to clarify the fact that home rule municipalities are free to establish procedures which may differ from those set out in Title 29.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.15.110. LIMITATION OF HOME RULE POWERS.

(13) AS 29.24.340(a) (election and term of mayor) Repeal.

(19) AS 29.30.040 (voter qualification) Repeal.

(28) AS 29.33.220 (expenditure of borough revenue) Repeal.

EXPLANATION: AS 29.24.340(a) provides that a home rule city may prescribe additional residency requirements by charter for eligibility to hold the office of mayor. This is not a limitation and does not properly appear in the list of home rule limitations. That section also stipulates that a mayor must be a municipal voter, but it is felt that those sort of administrative decisions ought to be left up to a home rule municipality.

AS 29.30.010 provides that three judges shall be appointed for each polling place and that the assembly or council prescribe rules for conduction elections. These appear to be administrative decisions properly left up to a home rule municipality.

AS 29.30.030(b) provides that the assembly or council may call a special election upon at least 20 days notice. This is an administrative matter properly left up to home rule municipalities. However, it was felt that the section dealing with voter qualifications ought to be included as a limitation on home rule powers to preserve uniformity across the state in this area.

AS 29.33.220 provides that revenues collected on an areawide basis may be expended on general administrative costs and on areawide functions only. Likewise, revenues collected outside cites may be expended on general administrative costs and in providing services outside cities. It was felt that home rule municipalities ought to be given more flexibility in managing revenues.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS.

(j) Notwithstanding AS 29.65.010 - 29.65.130, a municipality which is unable to satisfy its entitlement due to a shortage of vacant, unappropriated, unreserved land suitable for residential, commercial or industrial purposes may fulfill its remaining entitlement by selection of other state land which is vacant, unappropriated and unreserved.

EXPLANATION: This added subsection addresses a problem which has come up when a municipality is formed in an area with little vacant state land nearby. This allows a municipality the option of selecting land not suitable for residential, commercial or industrial purposes rather than being paid for the deficiency, if it desires land for other purposes.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.010. ADMINISTRATION. The borough assembly or city council shall prescribe the rules for conducting a municipal election and shall appoint an election board composed of at least three judges for each precinct. If possible, a judge shall be a voter of the precinct for which he is appointed.

EXPLANATION: Adds the provision that judges be appointed from among precinct voters in order to conform to the 1980 revision of AS 15.10.120. "The municipality may not alter voter qualification requirements of this title" was deleted because that issue is addressed in AS 29.28.030. Subsection (b) which makes this applicable to home rule municipalities was deleted to conform to the change suggested in the proposed draft of AS 29.15.110.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.020. NOMINATIONS. (a) The assembly or council shall provide by ordinance the procedure for the nomination of elected officers by declaration of candidacy, or petition requiring the signatures of not more than 10 voters, or both.

EXPLANATION: This is a technical revision which does not substantively alter existing law.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.030. ELECTION DATES. (a) Unless otherwise provided by ordinance, a regular municipal election shall be held annually on the first Tuesday of October.

EXPLANATION: This is a technical revision assuring maximum flexibility for local governments.

Sec. 29.30.040. VOTER QUALIFICATION. (a) A person may vote if he meets the requirements of AS 15.05.010 - 15.05.040, has been a resident of the municipality for 30 days immediately preceding the election, is registered to vote in state elections and is not disqualified under article V of the state constitution.

(b) Voter registration by the municipality may not be required, and a municipality may not alter voter qualification requirements except that a municipality may by ordinance require a person to be a resident of the precinct, district, or service area in which he votes.

(c) This section applies to home rule and general law municipalities.

EXPLANATION: A reference has been provided to the voter qualification requirements for state elections. A municipality has been granted the flexibility of imposing a requirement that a person be a resident of the area in which he votes to avoid the possibility of people voting on nonarea-wide matters who will not have to live with the outcome of the vote.

Sec. 29.30.050. MAJORITY ELECTIONS. (a) A municipality may by ordinance provide for a runoff election if no candidate receives over 40 percent of the votes cast for the office of mayor or member of the assembly, council or school board.

(b) A municipality may by ordinance require a majority vote for the election of officials. A runoff election or other means of obtaining a majority may be used.

(c) Unless provided otherwise by ordinance, a runoff election shall be held within three weeks from the date of certification of the election for which a runoff is required and notice of the runoff election shall be published at least five days prior to the election date.

EXPLANATION: Under existing law a runoff election is required if no candidate receives over 40 percent of the votes cast for his office. This has been liberalized to allow a municipality to provide for this by ordinance for certain offices only. Otherwise, the person who receives the greatest number of votes is elected. The provisions specifying when a runoff must be held and the notice requirements is no longer mandatory. In addition, the procedure set out in (c) for municipalities which desire more procedural guidance allows three weeks before the runoff is held rather than two. The additional time would enable cities within boroughs to coordinate their runoffs and hold them at the same time.



CITY OF MC GRATH

P.O. BOX 57 MC GRATH, ALASKA 99627

PHONE (907) 524-3825

*Jan -
Please copy Policy members +
Technical Com + Mike W.
Thanks Archie's.*

October 1, 1980

Senator Arliss Sturgulewski
2957 Sheldon Jackson St.
Anchorage, Alaska 99504

Dear Senator Sturgulewski,

I am sorry that I did not have the chance to speak to you or make a presentation at the Title 29 Revision Committee meeting on Monday. An illness in the family made me late and an airplane necessitated my leaving before noon. However, I was very pleased by what I witnessed. The discussions on the transfer of land and planning and zoning were very relevant to what we are presently facing. I heard only a portion of Dr. McGinnis' presentation and it upset me. If the Dept. of Health & Social Services is advocating that the second class cities should assume the responsibility for AFDC and Medicaid payments, they should be taken out and shot! Mike Wallerle was making several good points about what it is to be an Alaskan Native and the relationship between the individual and the rest of the community. The Department's plan would be doomed to failure in several communities around the state. This in turn would have other disastrous consequences for other small, second class cities.

Since I was unable to make my planned presentation, I would like to address my remarks to you. I will only be addressing small, second class cities. First, there are two major influences upon the small second class cities. They are their size and remoteness and the fact that the unorganized borough is over organized. I had hoped that Mike Wallerle would touch on this point but he didn't. The committee must realize that eventhough our communities are small that life is very complex in the "bush". A small second class cities must supply a seven member city council, a board of directors for the local ANSCA corporation, at least one advisory school committee (in many instances there are several standing educational committees such as JOM, Indian Ed. etc for the REAA and, if there is a BIA elementary school another set of committees), several members for the Native Village Council or IRA Council and members for other important local committees as well as representatives to regional organizations such as the regional corporation, regional housing authorities, fishand game advisory commissions, and State boards and committees.

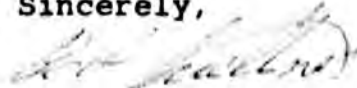
Because of the small population and the over organization of the second class cities, it becomes extremely difficult to find qualified people to fulfill all the positions whether voluntary or for pay. This in turn results in lack of service being

performed or offered by the second, class cities. The fact that there are so many second class cities which are not functioning is an indication that the system needs to be simplified. I would offer the committee two recommendations. First, acknowledge that entity which is functioning most efficiently in the community whether it is an IRA Council, a Native Village Council, a community organization or association whatever. The State would be recognizing these organizations as providers of services. They would not have the power to enact ordinances or police functions. As a recipient of State funds, these organizations would have to assure the State that services are being delivered in a non-discriminatory manner. The new revenue sharing program does this to some extent. The desired result of this course of action would be the demise of second class cities which do not function, and a simplification of life in the "bush". Second, I would recommend the creation of home rule, second class cities. These cities would not be responsible for the local educational program nor would they be required to have a minimum population of 400. This would allow local communities to evolve a form of local government which is more compatible with local conditions. I acknowledge the fact that developing a charter is difficult and time consuming. However, I feel that it would go a long way to bridge the cultural gap in small, second class cities.

Finally, I would ask the committee to look at the relationship of the small second class cities to the executive branch of the State. Article X, Section 6 makes the legislature responsible for providing services to the unorganized borough through a maximum of local participation and responsibility. In fact, it is the executive branch which provides the services but without any local input. The recommendations developed by the C&RA Committees especially the development of service areas along REAA boundaries would simplify things greatly. However, there needs to exist both a means of making local concerns known to the executive branch and a means of recourse for local concerns which are impacted upon by executive branch executive decisions.

I want to thank you for the opportunity to sound off. Furthermore, I apologize for all the typing errors as I ran out of correcting ribbons for my typewriter.

Sincerely,


Robert S. Juettner
City Administrator

File 100 *Put in note table 24 mty.*
Cheformak City Council
Cheformak , Alaska 99561

20 June 1980

Local Government Study
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Gentlemen;

We wish to give our full suport to the issue on Capitol Foundation fund. We find it very helpful to our situation because we don't have very much in matching costs to our capitol projects.

Right now we are trying to get funds to build a Cultural Facility but we don't have matching costs. If it is possible, we will introduce the amounts we are trying to get and the matching costs.

We have other capitol projects we would like to get on, but don't have funding.

If we have to fill out forms or questionnaires to get those funds, Please don't hesitate to send them to us.

With our support,
Cheformak City Council
Cheformak City Council

cc. DL.
N.L.

SCOMM

#23:10

TITLE 29 REVISION
PROPOSAL FOR RECALL
(Formerly AS 29.28.130-250)

October 20, 1980

29.30.210 Recall. An application for a petition for the recall of an elected official of a home rule or general law municipality may be filed with the municipal clerk after the official has served six months of the term for which elected or appointed.

(This revision clarifies the dates to be used in determining when the six months period has run; it also adds officials who are appointed to elected positions.)

29.30.220 Grounds. Grounds for recall are

(1) violation of an ordinance, law, or regulation made applicable to the official by his candidacy for or holding of such elected office,

(2) judicially declared incompetence arising out of a medical or mental condition, or

(3) failure to perform a duty of the office prescribed by ordinance, law, or regulation.

(This revision retains the present grounds but attempts to remove some of the ambiguities of the present language.)

29.30.230 Application for Petition. (a) An application for a petition to recall an elected official shall be filed with the municipal clerk.

(b) The application shall contain

(1) the signatures and resident addresses of at least ten qualified voters of the municipality as sponsors,

1 (2) the address to which all correspondence
2 relating to the application may be sent,

3 (3) a statement in 200 words or less of the
4 grounds of recall stated with particularity as to specific
5 instances, including reference to the pertinent ordinance,
6 law, regulation, or judicial decree.

7 (This section requires a submission of an
8 application to the clerk for a petition for recall. As
9 provided in a later section, the clerk will provide the
10 recall petition forms. The application procedure is necessary
11 as a part of a new, proposed procedure whereby the official
12 who is the subject of the petition will be given an opportunity
13 to have his statement answering the accusation placed upon
14 the petition before it is circulated.)

15 29.30.240 Petition. (a) If the municipal clerk
16 determines that the application meets the requirements of
17 §230, he shall submit a copy of the application to the
18 officer who is the subject of the application.

19 (b) The officer shall have ten days from receipt
20 of the application to provide the clerk with a statement of
21 200 words or less which shall be placed on the petition with
22 the statement of the grounds for recall.

23 (c) The municipal clerk shall prepare a recall
24 petition for circulation by the sponsors. A petition shall
25 contain

26 (1) the name of the officer sought to be
27 recalled,

(2) the statement of the grounds for recall
as set forth in the application,

(3) the statement of the officer sought to be

1 recalled, if provided,

2 (4) the date the petition is first issued by
3 the clerk,

4 (5) a statement that the signatures on the
5 petition must be secured within 60 days of the date first
6 issued,

7 (6) spaces for the required signatures, the
8 printed name of each person signing the petition, the date
9 of each signature, and both the resident and mailing address
10 of each signer,

11 (7) a statement to be signed and sworn to by
12 the circulator stating the number of signatures on the
13 petition page or pages, that the circulator personally
14 circulated the page or pages, that all signatures were
15 affixed in his presence, that he believes them to be genuine
16 signatures of the persons whose names they purport to be,
17 that each signer had an opportunity before signing to read
18 the grounds for recall and the statement of the official
19 printed on the petition, and that he believes each signer to
20 be a qualified municipal voter.

21 (This section is part of the application-
22 petition procedure and sets forth requirements similar to
23 those proposed under the initiative and referendum procedures
as it relates to petition content.)

24 29.30.250 Required Signatures. (a) Every petition
25 shall be signed by a number of registered voters residing
26 within the territorial limits of the municipality equal to
27 25 percent of the number of votes cast in the municipality

1 at the last state general or primary election which was held
2 on or prior to the date of the first issuance of the petition.
3 The necessary signatures on the petition shall be secured
4 within 60 days of the date the clerk first issues the petition.

5 (b) Illegible signatures shall be rejected by the
6 clerk unless accompanied by a legible printed name. Signatures
7 not accompanied by a legible residence address shall be
8 rejected.

9 (c) A petition signer may withdraw his signature
10 upon written application to the clerk at any time prior to
11 certification of the petition by the clerk.

12 (d) The petition pages shall be assembled and
13 filed as a single instrument within 60 days of the date of
14 first issuance of the petition.

15 (This continues the current 60 day signature
16 gathering period. It also clarifies the election which is
17 to be used as a standard for determining the number of
18 signatures required. It is proposed that a state election
19 be used. Prior to the 1972 revision of Title 29, the last
20 gubernatorial election was the standard.)

21 29.30.260 Sufficiency of Petition. (a) Within ten
22 days of the date the petition is file, the municipal clerk
23 shall certify on the petition whether or not it is sufficient.

24 (b) If the petition is insufficient, it may be
25 supplemented within ten days with additional signatures
26 which are obtained within ten days after the date on which
27 the petition is rejected. If the petition is insufficient
for any other reason, it shall be rejected and filed as a
public record.

1 (c) Within ten days after the supplementary filing,
2 the clerk shall recertify the petition. If it is still
3 insufficient, the petition is rejected and filed as a public
4 record.

5 (The only significant change to the corresponding
6 section of the present law is that the proposed section
7 makes it clear that signatures for the supplementary filing
must be those which are gathered during the ten day period
after the petition is first rejected.)

8 29.30.270 New Application. The rejection of a
9 petition for failure to contain sufficient signatures or for
10 any other reason does not preclude the filing of a new
11 application for a recall petition. However, a new application
12 may not be filed sooner than six months after a petition is
13 rejected.

14 (The only significant change is to prohibit a
15 new petition if the prior petition was rejected for any
reason in addition to rejection for insufficient signatures.)

16 29.30.280 Submission. If a recall petition is
17 sufficient, the clerk shall submit it to the assembly or
18 council at its next regular meeting.

19 (No significant change.)

20 29.30.290 Challenge of Petition. (a) The officer
21 who is the subject of a recall petition submitted to the
22 assembly or council may, within 30 days of the date the
23 petition is filed with the assembly or council, file an
24 action in the superior court for a determination of any of
25 the following questions:

26 (1) Whether any of the grounds for recall
27 stated are not grounds under §220.

1 (2) Whether any of the acts alleged do not
2 constitute one or more of the permitted and alleged grounds.

3 (3) Whether one or more of the accepted
4 signatures should be rejected.

5 (b) Upon a finding that any of the acts alleged do
6 not constitute a permissible and alleged ground or that any
7 grounds alleged are not grounds set forth in §220 or that
8 sufficient accepted signatures should have been rejected to
9 cause the petition to be insufficient, or for any other
10 reason which the court finds appropriate, the court shall
11 order the petition rejected and shall order the name of the
12 officer subject to the rejected petition to be removed from
13 the ballot.

14 (c) If an officer who is the subject of a recall
15 petition submitted to the assembly or council files suit
16 under this section, no recall election may be held for the
17 officer who has filed the suit nor for any other officer who
18 is the subject of a recall petition until after the time for
19 appeal of the superior court judgment has passed.

20 (I believe the foregoing is relatively clear on
21 its face.)

22 29.30.300 Election. (a) If a regular election
23 occurs within 75 days, but not sooner than 40 days of the
24 later of either the submission of a certified petition or
25 the passage of the time for appeal of a judgment in a suit
26 filed under §290, the assembly or council shall submit the
27 recall at that election.

1 (b) If no regular election will occur within such
2 time, the assembly or council shall hold a special election
3 within 75 days, but not sooner than 40 days after, the later
4 of the submission of a certified petition or the expiration
5 of the time for the appeal of a judgment of a suit brought
6 under §290.

7 (c) If a vacancy occurs in the office after a
8 sufficient recall petition is filed with the clerk, the
9 petition shall not be submitted to the voters. However, the
10 assembly or council may not appoint to such a vacancy the
11 officer who resigns from that office after a sufficient
12 recall petition is filed.

13 (The 40 day minimum was added to insure that a
14 petition submitted after the legal notices of the election
15 were published would not complicate the election and that
16 the election would not be held before the 30 days during
which the official has to file suit. Added in section (c)
is the prohibition against the appointment of an officer who
resigns after a sufficient recall petition is filed.)

17 29.30.310 Form of Recall Ballot. A recall ballot
18 shall contain:

19 (1) the grounds as stated in 200 words or
20 less in the recall petition;

21 (2) the officer's statement of 200 words or
22 less if the statement is filed with the clerk for publication
23 and public inspection within 20 days before the election,
24 otherwise the statement of the officer, if any, which appeared
25 in the recall petition;

26 (3) the following question: "Shall (name of person)
27 be recalled from the office of (office)? Yes [] No []".

1 (The only significant change is to make reference
2 to the fact that the statement of the grounds is limited to
3 200 words and also to provide that the statement of the
4 officer which was used in the recall petition will appear on
5 the ballot unless the officer provides a different statement.)

6 29.30.320 Election Procedure. Procedures for
7 conducting a recall election are those of a regular municipal
8 election if the question is submitted at a regular election;
9 otherwise, the procedures shall be those applicable to a
10 special municipal election.

11 (This section was changed to make reference to
12 special election procedures if the election is a special
13 election.)

14 29.30.330 Majority Required. A majority of those
15 voting on the question must vote in favor of recall to
16 recall an officer. Only those voters in the district or
17 area which elects the officer may vote on the recall of the
18 officer.

19 (This merely restates in different language the
20 majority vote requirement. The section also adds a new
21 sentence which makes it clear that if the officer is elected
22 by the voters of a district, then only the voters in that
23 district will vote on the recall question.)

24 29.30.340 Effect. If a majority of those voting
25 on the question vote to recall the officer, the officer's
26 seat shall become vacant immediately upon certification of
27 the result of the election on the question. If an incumbent
is not recalled at the recall election, a new application
for a recall petition on the same incumbent may not be filed
sooner than six months after the date of the certification
of the recall election.

(The first sentence is added to this section to

1 make it clear precisely when a recalled officer loses his
2 seat. The second sentence has been slightly changed to peg
3 the commencement of the six month period as the date of
certification of the election results.)

4 29.30.350 Successors. (a) If one or more officers
5 are recalled from an assembly or council, the assembly or
6 council, by the affirmative vote of a majority of the remaining
7 members, may appoint qualified persons to fill any vacancy
8 created by the recall.

9 (b) If all members of the assembly or council are
10 recalled, the governor shall appoint at least three
11 qualified persons to the assembly or council. Such appointees,
12 by an affirmative vote of a majority of the appointees,
13 shall appoint such additional members as are required to
14 fill any remaining vacancies.

15 (c) If one or more officers are recalled from a
16 school board or from a body created by the assembly or
17 council, then the assembly or council may appoint such
18 qualified persons as it deems necessary to fill any vacancy
19 created by the recall.

20 (d) A person appointed to fill a vacancy under
21 sections (a) through (c) shall serve until a successor is
22 elected, qualified, and takes office.

23 (e) If the voters recall an officer, the clerk
24 shall conduct an election for a successor to fill the unexpired
25 term. The election shall be held at least ten but not more
26 than 60 days from the date of the certification of the recall
27 election. However, if a regular or special election occurs

1 within 75 days of the certification of the recall election
2 and the certification occurs at least 20 days prior to the
3 latest date upon which first notice of the election must be
4 published, the successor to the recalled official shall be
5 chosen at that regular or special election. The procedures
6 and requirements for the regular election for the office
7 from which the incumbent is recalled apply to the election
8 conducted under this section; provided, nominations may be
9 filed until the later of seven days before the latest date upon
10 which first notice of the election must be published or the
11 deadline for the filing of nominations for regular elections.
12 Nominations may not be filed before the certification of
13 the recall election.

14 (Sections (a) through (d) are new and are
15 submitted to prevent a local government from having to
16 attempt to operate without a quorum of elected officers.
17 Section (e) was changed to take into account times required
18 for election notice and nominations.)
19
20
21
22
23
24
25
26
27

PHONE 465-3738
FAX 465-3738
JUNEAU, ALASKA 99811
PHONE 465-3738 OR 3738
HOME PHONE 788-7897



HOUSE OF REPRESENTATIVES
VICE CHAIRMAN JOINTLY SELECTED
MEMBER, RULES COMMITTEE
MEMBER, SPECIAL COMMITTEE
ON SUBSISTENCE

House of Representatives

August 26, 1980

Mr. Palmer McCarter, Director
Division of Local Government Assistance
Department of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Sir:

It has come to my attention that the second class cities and unincorporated village governments in the Bristol Bay Region will experience severe problems in meeting the September 20, 1980 deadline for mailing completed State Revenue Sharing applications to qualify for the \$25,000 minimum entitlement provided for in the new law revising the State Revenue Sharing Program. It has further come to my attention that applications were only recently mailed to general law municipalities and that applications for traditional governing councils have yet to be mailed.

The September 20th time deadline is further compounded by the problem that many of the villages in our region are currently unaware of the provision in the new law which provides state aid to eligible governments recognized under the Alaska Native Claims Settlement Act. Another very real problem is the frequency of mail delivery service, which is sporadic at best, to many of the villages in the more remote areas.

A lot of work on the part of rural legislators went into FCCHB 192 reforming the State Revenue Sharing Program to include state aid to unincorporated governments and the \$25,000 minimum entitlement provision for small rural municipalities with no tax base.

With the September 20th deadline for mailing applications just around the corner, it appears that many local governments that could take advantage of the new State Revenue Sharing program will be unable to do so. I would encourage your department to strongly consider extending the deadline to allow more local governments desperately in need of such monies to have the time to properly complete the application process.

Thank you.

Very sincerely,

Nels A. Anderson, Jr.
Nels A. Anderson, Jr.

cc: Senator George Hohman
Rep. Bill Parker
Sen. Arliss Sturgulewski
Governor Hammond
Commissioner Lee McAnerney, CRA
TUNDRA TIMES
TUNDRA DRUMS

OK
copy to the 29 committee

HOME PHONE 642-8802
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
PHONE 463-3738 OR 3739
HOME PHONE 789-7897



VICE CHAIRMAN, JOINT COMMITTEE
MEMBER, RULES COMMITTEE
MEMBER, SPECIAL COMMITTEE
ON SUBSISTENCE

House of Representatives

August 26, 1980

Mr. Palmer McCarter, Director
Division of Local Government Assistance
Department of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Sir:

It has come to my attention that the second class cities and unincorporated village governments in the Bristol Bay Region will experience severe problems in meeting the September 20, 1980 deadline for mailing completed State Revenue Sharing applications to qualify for the \$25,000 minimum entitlement provided for in the new law revising the State Revenue Sharing Program. It has further come to my attention that applications were only recently mailed to general law municipalities and that applications for traditional governing councils have yet to be mailed.

The September 20th time deadline is further compounded by the problem that many of the villages in our region are currently unaware of the provision in the new law which provides state aid to eligible governments recognized under the Alaska Native Claims Settlement Act. Another very real problem is the frequency of mail delivery service, which is sporadic at best, to many of the villages in the more remote areas.

A lot of work on the part of rural legislators went into FCCHB 192 reforming the State Revenue Sharing Program to include state aid to unincorporated governments and the \$25,000 minimum entitlement provision for small rural municipalities with no tax base.

With the September 20th deadline for mailing applications just around the corner, it appears that many local governments that could take advantage of the new State Revenue Sharing program will be unable to do so. I would encourage your department to strongly consider extending the deadline to allow more local governments desperately in need of such monie to have the time to properly complete the application process.

Thank you.

Very sincerely,

Nels A. Anderson, Jr.
Nels A. Anderson, Jr.

cc: Senator George Hohman
Rep. Bill Parker
Sen. Arliss Sturgulewski
Governor Hammond
Commissioner Lee McAnerney, CRA
TUNDRA TIMES
TUNDRA DRUMS

OK
copy title 29 committee



McGRATH, ALASKA
PHONE (907) 824-3825

August 26, 1980

Arliss Sturgulewski, Senator
2957 Sheldon Jackson Street
Anchorage, Alaska 99504

Dear Senator Sturgulewski,

Back at the beginning of the summer, I attended a meeting called by the Division of Community Planning. It was a "loose meeting" in that the agenda was flexible and covered many areas and concerns. Somewhere in the meeting, we touched upon the changes proposed by the Community & Regional Affairs Committees. If I am not mistaken, everyone agreed that the committees were on the right track especially in regards to the establishment of service areas following REAA boundaries.

Well, it seems that those of us living in the "bush" know more about what happens in Juneau than some of the state employees living and working there. For example, the Dept. of Health & Social Services just unveiled a plan whereby the communities of Holy Cross, Anvik, Shageluk and Grayling which are all in the Iditarod Area School District, REAA 11, will now receive their public health nurse services from Bethel. Ms Lois Bergerson decided that those people would be better served from Bethel than McGrath. Was there any local input from those communities? Was any consideration given to the fact that those people are Athabascans and not Yupiks? Did anyone think to explore the logic behind the boundaries of REAA 11? The answer to all three questions is no. However, Ms Bergerson is adamant that the changes will take effect on Sept. 1 irregardless of any protests.

It is my firm hope that when the Legislature convenes in January, that the Community & Regional Affairs Committees will reintroduce the same package of bills.

Sincerely,


Robert S. Juettner
City Administrator

8/29/80 Admin'd Bob Juettner's letter to committee → Jan Cooke - Please copy AS 29 Revised Committee with ex-Offici + Dept HSS + Fran Ulmer

Indian Chiefs Conference, Inc.
Doyon Building
1st and Hall Streets
Fairbanks, Alaska 99701
Phone (907) 452-8251

8 - 5 1980
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

August 1, 1980

Ms. Lee McAnerney
Commissioner
Dept. of Community & Regional
Affairs
State of Alaska
Pouch B
Juneau, Alaska 99811

Dear Commissioner McAnerney:

This letter is in response to your June letter requesting comments on the Title 29 Municipal Government Code Revision authorized under Senate Concurrent Resolution No. 66. As indicated by our prior correspondence, we are greatly interested in this area and wish to submit the following comments to be used in the Title 29 revision project.

RECOGNITION OF TRADITIONAL GOVERNMENTS

Local government in rural Alaska is extremely complex. This complexity is primarily due to the vast number of board, commissions, municipal corporations, ANCSA Native Village corporations, town site trusts, recognized entities for municipal trust lands, IRA councils, traditional councils, etc. For sometime TCC has been in favor of local government simplification. The problems of local government should not be addressed through the creation of new boards, commissions, corporate bodies, or new forms of municipal government. Rather, rural local government should be reorganized to utilize existing bodies and enhance those bodies. The introduction of new and novel forms of government may only lead to confusion as rural residents attempt to deal with their local governmental matters.

In connection with this policy of local government simplification, we believe it is important to fulfill the constitutional guarantee that the legislature shall provide for performance of services that it deems necessary or advisable in the unorganized borough and allow for maximum local participation and responsibility. This policy is substantially analogous to the federal policy of self-determination.

To meet these two basic policies, we feel it is necessary that the state of Alaska recognize the traditional governments which currently operate in Alaska. Such recognition will do several things. First, it will allow for the coordination of the funds currently available to local communities from sources other than the state, i.e., BIA, HUD, various CETA programs, etc.

To some degree this issue has already been addressed in the recognition of traditional governments for revenue sharing purposes. We feel, however, that more cooperation is needed between the state and these traditional governmental forms to fully realize maximum local participation and responsibility. To implement this, we favor such legislation as S.B. 565 introduced last session.

By extending such recognition to existing village and community organizations, we believe that rural government will be substantially enhanced. The recognition of such existing bodies will obviate the necessity for the specialized advisory committees, specialized service areas and boards and substantially contribute to local government simplification in the currently unorganized areas of rural Alaska. In addition, such recognition will fulfill the constitutional guarantee of maximum local participation and responsibility.

DECENTRALIZATION OF STATE SERVICES

It is sometimes difficult even for Alaskans to fully comprehend the geographical immenseness of Alaska. An appreciation of the sheer size of Alaska cannot be achieved through casual reference to a map. A full appreciation of Alaska's geographical size can only be appreciated by traversing this great land through conventional transportation systems. To the rural resident, this means being dependent on urban based state service personnel located at various sites throughout the state. Seldom is it possible for the rural resident to contact a state agency locally or even make a single phone call to a single urban government office to solve any problem. The urban Alaskan faces a similar problem in having to rely on state personnel based in other urban centers.

In both the rural and urban contexts, the root problem is the economy of scale. It is simply not economically feasible to establish free standing state agencies at the local level. The administrative cost to establish such programs would be enormous, but the need for decentralized state services is evident. State services should be available in the areas of need. State services should be available at a local level in all localities of the state to the extent that this is feasible. This problem can only be solved through the cooperation of local and state governments to provide maximum local services. This cooperation can be achieved by allowing the local governments to contract for the providing of state services. Basically, this will allow the merger of local and state program administration and allow a maximum amount of direct state financing directed toward program operations. Additionally, it is perceived that such cooperation would make the operation of state programs more responsive to local needs and desires.

It should be remembered, however, that the legislature under this theory will retain ultimate policy decision-making authority. It is only the administration of state and local programs which will be affected. Additionally, it should be recognized that not all state programs can be effectively decentralized, nor is it desirable that all state programs be decentralized. Rather, it is important that those state programs which are technically capable of being decentralized and for which there is a stated need and desire for local program operation should be decentralized through contracting.

LOCAL GOVERNMENT CONSORTIUMS

During the last legislature, several bills were produced out of the interim work of the Senate and House Community and Regional Affairs Joint Local Government Study of 1979. These bills recognized the need for coordinated regional planning.

Last February, TCC submitted comments on this legislation. At that time, we stated that existing local governments should be used as much as possible and that regional concerns can best be addressed through consortiums of existing governments.

Consortiums are advisable for a number of reasons. First, they would be entirely voluntary. The committee hearings fairly indicated strong opposition to "mandatory" regional organization. Second, consortiums could easily coordinate existing programs allowing for current program and plan continuity. Third, a consortium would not create a new independent regional entity and, thus, it would be possible to avoid the type of intergovernmental conflicts which characteristically exist between boroughs and included cities. Finally, the consortium would be governed by a flexible agreement between communities. Such agreements could be flexible enough to address unique regional variations found within each area. In addition, a community's participation would be voluntary, and, therefore, presumably supported by the local community.

The arrangements which we propose are currently authorized under Article X, §13 of the Alaska Constitution which allows local governments to enter into compacts for the joint administration of functions and powers. What is needed is clarification of the permissible scope and impact of these agreements, and new legislation which would allow such consortiums to jointly exercise authority outside of their existing local boundaries.

Conceivably, these consortiums would do three things. First, they would provide for coordinated administration of local governments. By splitting costs and sharing staff, the consortiums could provide a higher quality of service at a reduced cost, where the fragmented governments that now exist cannot operate. Second, the consortiums could address regional concerns, provide a forum for expressing those concerns, and advise state agencies on regional needs and desires.

Third, they would jointly exercise those powers which they agree to jointly exercise outside their current respective boundaries, or within existing boundaries, upon consent of the respective municipal governments.

STATE SUPPORT OF LOCAL AUTHORITY

There are a number of disincentives to a rural municipal government which wishes to exercise its municipal authority. For example, a rural community which passes an ordinance, may not be able to enforce it. If a city attempts to enforce its ordinances, it is subject to substantial liability under current tort law. Where a civil plaintiff or criminal defendant often have free legal assistance available, a city has severely limited funding available to enforce its ordinances or defend against civil complaints. If a city loses a civil suit, the resulting judgment could bankrupt the city or substantially incumber future revenues. In this atmosphere, it is impossible to expect a responsible city official to fully exercise the local government functions.

It is important that the state assist rural municipal government if it is to succeed. Many of the problems can be addressed in Title 29 itself. For example, municipal liability can be reduced to acceptable levels by enactment of a rule raising the standard of municipal tort liability for only those official acts involving "wanton and willful" conduct rather than mere negligence alone. Municipal ordinances and regulations can be assimilated into state law to allow state prosecution of local violations. Such assimilation could be dependent upon compliance with a model municipal code enacted by regulation or dependent on approval of the attorney general's office or Department of Community and Regional Affairs. Communities enacting nonapproved regulations and ordinances, however, should still be able to enforce them in the conventional manner.

Initially, such a system seems expensive to implement. It should be noted, however, that the state is expanding its criminal justice presence in rural Alaska. The proposed Bush Justice Corrections Plan would provide the basic infrastructure required by the above model. In light of these developments, the above model is a minor addition to the planned infrastructure.

IMPLEMENTATION OF LOCAL INPUT

Often local governments and state agencies are not coordinated. Most notably, state land disposals have often conflicted with local land use/development plans. State law generally favors local control or at least local input in the organized areas of the state. In the unorganized areas of the state, however, the state agencies seem to dominate. This exists in spite of the constitutional promise of maximized local participation. We, therefore, propose that some mechanism be inserted into law to provide for fuller local participation.

Page 5
August 1, 1980

Three alternatives exist. First, an administrative restraint may be placed on agencies' actions. Specifically, a community or consortium must agree to agency actions/plans affecting the community or consortium. In the absence of such consent, the agency would have to show, in a locally neutral administrative hearing, that the best interest of the state requires such agency action/plan.

A second alternative would be a planning restraint on the agencies. The communities or consortiums would produce regional plans with which the agencies must comply. Without compliance, the agencies would have to get a waiver from the community or consortium or proceed through a local neutral hearing.

Third, a political mechanism could be established. State law could require agencies to have local plans/actions approved by a local hearing officer at a local hearing. This would allow affected communities and consortiums an opportunity to provide input and hopefully influence agency actions in their areas.

We hope that you find the above comments useful, and that these concerns find their way into the planned Title 29 revisions. We will be glad to respond to any questions regarding the above proposals and plan to augment these comments as needed.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



William C. "Spud" Williams
President

WCW/4877m
113a11



Official Business

House of Representatives

Committee on

Community & Regional Affairs

June 12, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Mr. Billy Barrier
FROM: Marjorie Gorsuch *md*
RE: FCCSHB947

Being aware that you will be involved in the revision of Title 29, as per the requirements of CSSCR66 which directs the Alaska Legislative Council to review the Municipal Government statutes, I want to call your attention to an area of law, enacted by the Eleventh Legislature as FCCSHB947, which you will want to address during the course of your revision. In the haste of the last days of legislative activity, the following omissions went unnoticed when the Free Conference version of the bill was adopted.

Section 9 AS 29.23.025 (e) outlines the procedures to be followed if a reapportionment ordinance has not been approved by the voters after the assembly has determined that reapportionment is necessary. The law does not address what happens to the order--is it voted on by the people? Can the order be appealed? Is administrative or judicial review provided for?

In Section 29.23.029 and Section 29.23.031 there should be additional statutory references providing for judicial review and relief in all applicable instances and referencing all applicable voter approved ordinances and reapportionment orders under Sec. 031.

Both the draftsman, Jack Chenoweth, and Ginny Chitwood of the Municipal League which will be involved in the revision of Title 29 are familiar with the problems in the Free Conference law and would be able to answer any questions.

Elsie O'Brien (Houston city clerk) to Arliss Sturgulewski

(1) AS 29.28.190, recall provisions --

Should consider adding a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain

(2) AS 29.63.090 -- service areas within boroughs

The Mat-Su borough loaned money to a road service area, apparently on promise of repayment within fiscal year, but without approval of the apparent indebtedness by voters of the affected service area. Should consider legislation to require that such debts are subject to prior approval by voters within service area.

General observation with respect to Title 29 -- would like greater information within the text of the ^{volume}~~statute~~. (This is probably not possible because of the strict format relating to what may be annotated. However, perhaps CRA Department should receive an amount so that each year, for small cities, a loose-leaf form of Title 29 may be prepared or updated which carries changes in law, applicable commentary, case decisions, AG opinion texts, etc. supplied by the Dept on a quarterly basis. -- The cities could reimburse for the service, or for a portion of it.)

P.O. Box 183
ST. MARY'S, ALASKA 99858

July 29, 1980

Department of Community and Regional Affairs
Pouch B
Juneau, Alaska 99811

Re: Recommendations for changes in Title 29
To Title 29 Policy Committee

Gentlemen:

At the request of Mayor Paukan I am submitting the following comments on some of the provisions of Title 29 that the City would like to see changed. The provisions I have commented upon are those that have proved somewhat troublesome during my duration as City Manager. There are no doubt many other provisions that require change.

29.23.570 VACANCIES: This year the City had one councilman leave town without resigning before departure. The City needed to fill the vacancy quickly. None of the provisions of 29.23.570 were helpful. However, 29.23.200 provides that a councilman who ceases to be a city voter immediately forfeits his office. The Council used this provision to justify filling the vacancy immediately. This provision of section 23.200 should be included under section 23.570

29.23.070 and 29.43.040 PLANNING, PLATTING AND ZONING The mandatory language of this section should be permissive. The wisdom of comprehensive plans and complicated zoning requirements are still subject to professional debate and Cities should have the option to develop other methods of control.

29.48.190 BUDGET AND CAPITAL PROGRAM Subsection (c) is unclear with respect to the procedures that must be followed to make transfer and supplemental appropriations. The language providing that no payment may be made except in accordance with appropriations may be troublesome in that it could be interpreted to give the City no leeway with respect to spending except through lengthy procedures to amend the budget. The suggested budget ordinance sent each year to municipalities by Community and Regional Affairs is more flexible and preferable but may not be legal under 29.48.190. This section should be changed to permit transfers without budget amendment if less than 10% or \$10,000 whichever is less of the original appropriation.

29.48.220 POST AUDIT The audit requirement is burdensome for the City. As a first class city we are required to provide a certified audit of city finances. Second class cities need only submit certified financial statements prepared by the city bookkeeper. The City obtains little advantage and no tangible benefit from this requirement. The only people who review the audit are from DCRA. The audit requirement should not be tied to city class. Rather, the requirement should depend upon the size of the budget. It is the amount of money the city spends that justifies audits. Financial statements should be sufficient for cities with budgets less than one million

29.48.260 MUNICIPAL PROPERTIES I consider this to be the most troublesome provision in Title 29 for rural communities. Through the Department of Community and Regional Affairs the City has requested an Attorney General's opinion on some of the requirements of this provision and has recently received a Community Legal Assistance Grant to determine the effect the statute has on land disposal in St. Mary's. First the requirement of appraisals on land before disposal are difficult when most rural land is difficult if not impossible to appraise because comparable sales do not exist. Public auctions may cause the price of land to escalate beyond the means of local residents to afford, and may inhibit local residents who do not speak english from participating in auctions. The words "if any" in subsection (c)(3) seem to indicate public auction or sealed bids are optional but this is not clear. Cities should have the option of developing disposal procedures appropriate to its locality. Such procedures should be ratified by the voters.

I can see no reason for subjecting leases of City land to the same requirements that attach to sales of city land. This unduly restricts the City's ability to make land available for new businesses.

It is not clear whether the exception developed in subsection (e) is free from the requirements of prior appraisal and public auction or sealed bid.

29.68.010 LOCAL BOUNDARY COMMISSION The City recently annexed an adjacent community into its boundary. In order to facilitate the annexation the City wanted to and did make major concessions to the citizens of the adjacent community with respect to a voice in City affairs. Technically what the City has done is not legal because the annexation is not finalized until 45 days after the next legislative session has begun. The delay in time between the decision of the Local Boundary Comm'n. and the legislative disapproval time is unnecessary and can lead to legal complications. Since the legislature has never disapproved a Boundary Commission decision it seems this requirement of submission to the legislature has little utility. A workable alternative might be to preserve a right to appeal a boundary commission decision to the legislature.

I am delighted to see the efforts to review Title 29. I hope it produces some beneficial results. I trust these comments will prove helpful.

Sincerely,

CITY OF ST. MARY'S

Timothy E. Troll
Timothy E. Troll
City Manager

RECEIVED
AUG - 4 1980

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

AREAS OF AS 29 (MUNICIPAL CODE) REQUIRING ATTENTION

Dictated 7/29/80 BUT NOT READ

BY GERALD L. SHARP

The use of the word election throughout the code should be examined with the eye to eliminating all those references to "general" election where it was meant to refer to a municipal election. Where a state general election was meant, the word "state" should be added.

AS 29.08.010, 29.13.010 and 100, and 29.78.010(1)(2)(8)

A careful reading of the code indicates that a unified unit of home rule local government is not a municipality. Under these sections, it is not a home rule municipality. If this was the intent, it should be clarified in the definitions. Along this same line, all sections which apply to home rule boroughs and home rule cities should be reviewed to determine whether they should also apply to unified units.

AS 29.08.020

An interpretive guide should be provided for the court so that it does not seize upon this section to revive Dillon's Rule.

AS 29.13.100

The effect of the phrase "acting otherwise than as provided" should be examined to determine whether this phrase means that a home rule municipality may do neither more nor less than is prescribed for home rule municipalities. See the Whitson case.

AS 29.18.130

We should probably address REAA's under this section.

AS 29.18.140(a)(b)

This section implies that a newly incorporated city or borough may succeed a home rule or previously incorporated general law city or borough. Was this meant?

AS 29.18.180

Organizational grants under this section appear to be inadequate.

AS 29.18.330

The resident training and hire preference should be examined for constitutionality.

AS 29.23.060(a)

This section implies that there may be no special meetings if any member is not notified.

AS 29.23.060(d)

Some consideration should be given to reducing the quorum voting requirement by one vote for every two members of the body who are present who do not vote because they either have a conflict of interest or have been excused by the legislative body.

AS 29.23.070

This section seems to provide an unnecessary infringement of the chief administrator's prerogatives in appointing department heads.

AS 29.23.080

This section should be checked to determine whether it conflicts with the new procedures on reapportionment as it relates to council appointments and dual seats.

AS 29.23.040 et. seq.

The residency requirements, terms of officers, powers, duties, and the procedures for the changing of terms and qualifications of officers as these relate to the mayor, council, and assembly members should be uniform as between a city and a borough.

AS 29.23.210

Does this require four votes on a procedural motion? This language should parallel the similar provisions for

boroughs and both should be clarified as to whether there is a distinction between procedural and substantive motions.

AS 29.23.310

Reference within this section to repeal Section 100 should be corrected.

AS 29.23.340(d)

Perhaps this section should be clarified to permit the board to set rates.

AS 29.23.360

My question why there appears to be authority for the assembly or council to appoint administrative officers such as the treasurer and chief of police who do not serve the council or the assembly but must respond to the chief administrative officer.

AS 29.23.370

I question whether there may not be a conflict of interest for an attorney to provide legal advice to both the legislative and administrative branches. Perhaps, there should be a specific extension of the authority of the legislative body to retain its own legal counsel. Next, I question whether there isn't a conflict of interest for the clerk to serve two different masters, the legislative body, and the chief administrator.

AS 29.23.395 through .401

This sort of specific legislation ought to be deleted. If some sort of authority of this sort is required, it should be addressed in the general grant of powers.

AS 29.23.470

I question why the manager has no authority to appoint a temporary or interim manager during his own temporary absence.

AS 29.23.480

I suggest that the adoption of an ordinance at the very next meeting after the repeal of a manager plan is expecting

too much of any council or assembly considering the careful deliberation which should be given to the reorganization.

AS 29.23.540

The seriousness of the conflict of interest which exists when an employee of the school board serves on the body which determines the school boards budget but is not lessened in any way by the existence of subsection (c) of this section. This section should be repealed. (Sour grapes on my part, perhaps.) Also, it appears that this section would permit a person working in the grants section of the Department of Community and Regional Affairs to serve on an assembly or a council.

AS 29.28.015

I question why the mayor in a manager type municipality should not be permitted to be a member of the legislative body so long as he does not have the veto power. This seems to be something that should be left to local option.

AS 29.28.030

It is not clear, under this section, how one deals with a person who has been present within the municipality for more than 30 days but who does not register with the state of Alaska until four days before the election. It appears they might be qualified to vote in the municipal election as they will certainly be qualified to vote in the next state election.

AS 29.28.080(a)

This section implies that the initiative ordinance or resolution must be something within the power of the assembly or council and must not fall within the restrictions of Section 60; however, it appears that the assembly or council may reject the initiative only if it is within the restrictions of Section 60. I also believe that this section should be tightened up to make it clear that the initiative process may not be used to take what are essentially administrative actions even though the assembly or council itself may take such actions by ordinance or resolution.

AS 29.28.110

This section establishes an observed public policy and should be modified to parallel the more liberal provisions which we find in our state constitution.

AS 29.28.100
This section should be clarified to indicate whether a re-elected official may be recalled within six months within of his second election.

AS 29.28.140

This section should be changed to make it clear that elected officials may not be recalled for the manner in which they exercised a duty, e.g., the way they vote on a particular issue, but that they can be recalled for having voted on an issue on which they are prohibited from voting. They could be recalled for refusing to vote when they had neither a conflict nor been excused from voting. They could be recalled for failing to file a report required of individual public officials. They could not be recalled for having voted in favor of doing something prescribed by law nor could they be recalled for voting against doing something which is required by law.

AS 29.28.150

Some thought should be given to clarifying this section to require that the name of each elected official appear on a separate petition and not be on the same petition with any other elected official. The statement of the grounds should also be limited to 200 words.

AS 29.28.160

Either the clerk or the assembly or council should be given specific authority to review the petition for more than merely the superficial contents requirements. This determination should also go to whether or not the ground stated, if true, constitute grounds for repeal.

AS 29.28.170

I question why petitioners should have an additional ten days to gather signatures. Why not give them 70 days to begin with or just cut them off at 60. If the petitioners cannot do some of the leg work themselves of determining how many valid signatures they have collected, there seems to be little in public policy to require they be given an additional ten days for their sloppiness or inadequate performance.

AS 29.28.200(c)

If a public official who is the subject of a sufficient recall petition resigns prior to the election, and his name

removed from the recall ballot. May he be reappointed to his position by the remaining members prior to the recall election? May he be reappointed after the recall election?

AS 29.28.210

If we permit one petition to contain more than one name, how should the names appear on the ballot, separately so that the voters may express their desires as to each public official individually or should there be a single ballot giving the voters the same choice which the petitioners gave the petition signers, i.e., all or none?

AS 29.28.250

What happens when an entire assembly, city council, or school board are recalled? There should be some mechanism for providing for an interim legislative body.

AS 29.33.010

Some place here, and perhaps other sections, we should deal with the almost impossible antitrust situation which the United States Supreme Court cast upon us in its Lafayette decision.

AS 29.33.050

While the section is drafted so that it uses parallel verbs, I believe the "establishes, maintains, and operates" phrase should be changed to read "and shall establish, maintain, and operate."

AS 29.33.080(e)

Consideration should also be given here to reducing the majority vote requirement where there are two or more members of the commission who are present but do not vote because of a conflict of interest or because they have been excused by the remaining members.

AS 29.33.085(b)

The requirement that the commission present new recommendations on a comprehensive plan every two years should be redrafted so that it does not appear that the continued validity of the zoning ordinance is dependent upon such a review and so that it does not appear that there is any

...of a variance which is not pursuant to a comprehensive plan which has not been reviewed for more than two years. Also, it may not hurt to throw in some sort of language within the planning and zoning article to make it clear that the adoption of any zoning map change is a legislative and discretionary act and is not administrative as some state supreme courts seem to believe.

AS 29.33.110(b)(1)

I strongly suggest that we not make the Board of Adjustment the board which hears appeals from building code enforcement actions. Some municipalities may prefer to place building code enforcement under some other department such as public works. The authority of the Board of Adjustment to hear building code appeals should be optional with the municipality. Also, whether the assembly or council sits as the Board of Adjustment should also be optional with the municipality.

AS 29.33.110(b)(3)

It is not clear what the phrase "which are not contrary to the public interest" modifies, "the zoning ordinance," or "variances from the terms of the zoning ordinance," or "requests....".

AS 29.33.120

It appears that a person may file for a variance or conditional use, be denied that application, and yet proceed with the denied use if they appeal to the Board of Adjustment because the appeal, under the terms of this section, stays any enforcement where imminent peril is not involved.

AS 29.33.130(b)

I question whether the legislature, and more particularly an assembly, has any authority to establish what the court may well consider as a procedural rule relating to establishing the time within which one may file an appeal to the superior court.

AS 29.33.150

It might be wise to indicate in this section that the platting board has authority to require subdivision exactions.

AS 29.33.150(b) and AS 29.33.160(c)

I suggest it be made clear in here that adequate access does not include access over other privately owned land by way of an easement in favor of the applicant. Adequate access consists solely of access by dedicated or publicly owned ways.

AS 29.33.150(b) and AS 29.33.160(c)

These sections need to be revised out of the code.

AS 29.33.190

This section needs to be beefed up by incorporating administrative procedures to prevent the recording of instruments which create unlawful subdivisions.

AS 29.33.200

This section needs to be coordinated with the procedures under the condemnation sections of Title 9 which require the state to submit its property acquisitions in condemnation proceedings to the platting board.

AS 29.33.240

I question why a second class city located outside an organized borough may obtain title to vacated ways if they intend to use the way for some other public purpose, while within an organized borough the property goes to the abutting owner. I also wonder why parks, greenbelts, and other areas which are vacated are split between abutting property owners while the title to a public square vest in a municipality upon vacation.

AS 29.41.010

Perhaps the idea of third class boroughs should be re-examined.

AS 29.48.010

I question the need for such subsections as (1)(2)(3) and (5) as these all seem to relate to internal administrative matters which are clearly within the authority of the municipality. Some of these sound more like delegations of authority to a specific branch within the municipality. Also, I

There should be a catch-all grant clause. Also, something should or could be added to this section to clarify the authority of the municipality to establish and enforce liens for the collection of sales taxes. There might also be a section clearly authorizing the municipality to establish both minimum and non-suspendible penalties for violation of municipal ordinances.

AS 29.48.030

This may be the appropriate section to deal with the Lafayette antitrust problems. Under subsection (b), someone to check to determine whether the reference to the Alaska Transportation Commission makes sense in the light of SB 577 (sorry, I do not have the bill with me as I dictate this).

AS 29.48.033

Again, I do not have the 1980 legislation which effected state regulatory authority over cable television, transportation services, and garbage disposal but I believe what the legislature (industry) did should be carefully reviewed.

AS 29.48.050

I question whether there is any justified public policy behind requiring franchises to be granted by ordinance ratified by the voters. This has serious Lafayette antitrust implications. It seems that a public utility ought to be granted a permit so long as they can show public convenience and necessity.

AS 29.48.070, .080, and .090

The idea of a council or assembly sitting through a protracted rate setting hearing is preposterous. Any hearing which the ordinary council or assembly would sit still through could not possibly be adequate to justify a rate. Also, it is beyond me why the rates should be established by ordinance.

AS 29.48.100(b)

Not only are the preceeding utility regulations outmoded, it seems ludicrous to have them apply to home rule municipalities.

AS 29.48.110

AS 29 48.110 should be changed to make it clear that a

municipality may establish more than a single district.

AS 29.48.160(b)

If the procedure for regulating utilities and granting franchises has changed, this section should probably also be changed to correspond.

AS 29.48.190(b)

This section seems to imply that a municipality may enter into an obligation to make payments in a future year if it does so by ordinance. If this happens, I think you have a debt which must have first been approved by the voters and be for a capital improvement.

AS 29.48.200

The fine limitation and the imprisonment limitation both need to be raised. In addition, this may be the appropriate place to specifically authorize municipalities to establish both minimum fines and imprisonments and to provide clear authority for municipalities to make certain penalties non-suspendible.

AS 29.48.210

This section is a good example of the need to carefully distinguish between boroughs and cities on the one hand and unified units on the other. In any event, I believe this section should be changed to permit the expenditure of areawide revenues on a non-areawide basis.

AS 29.48.250

Since our supreme court seems to believe that a borough may not require central purchasing to include a school district, this section does not appear to have much, if any need. It should be deleted, as I believe this power is already possessed by a municipality.

AS 29.48.260

I believe the exemption which is set forth in (d) should be expanded to encompass any land which the municipality disposes of.

These two sections do not seem to have anything to do with the catch line nor with the two remaining subsections. I am not sure why (b) is required in the first place unless it is to make the transfer of this one power optional rather than mandatory as required under AS 29.33.260. These two sections should be moved to a section dealing with a general grant of powers or with the transfer of powers.

AS 29.48.310, 320, and 330

Although these three sections seem to be very comprehensive, it appears that our courts prefer a contrary rule. Either we need to strengthen the language in these sections or we need to print up a Miranda Rights Card which we can read to the judge every time we go into court over a municipal powers question.

AS 29.53.010

Again the problem of how this is to apply to unified units of government; also, this section should be changed to permit the use of areawide revenues on a non-areawide basis.

AS 29.53.020(a)(1)

Some place in the code we need to deal with the method of valuing privately held interests in tax exempt property.

AS 29.53.020(a)(3)

A number of problems arise from the lack of definitions of terms such as religious, charitable, educational, and perhaps, hospital, which are used in this section. Also, there is a question which arises relating to when a property which is owned by, for example, a religious organization, becomes exempt; for example, does vacant land become exempt when it is first purchased by an exempt organization, when the organization has an intent to devote it to a particular exempt use, when the organization commences construction of a facility which will be used for the exempt purpose even though during construction it is not being used for the exempt purpose? (b)(2)(B)

AS 29.53.030

This section should be revised to reflect a realistic value for mining claims, particularly in light of the recent rise in the price of gold.

Perhaps this is a section in which the valuation of leasehold and other possessory interest in tax exempt property should be exempt.

AS 29.53.135

This section should be clarified to indicate whether a majority of the number of members of the assembly. Also, either here or someplace else in the code, we should specifically address whether or not the Board of Equalization has the authority to determine whether property is exempt, and, if exempt, how much of the property is exempt if it is not totally devoted to the exempt use.

AS 29.53.150

A question arises as to whether property which goes from exempt property on January 1 of the tax year to non-exempt because of a change of use during the tax year can be put on a supplemental roll and taxed. Also, if it can be, should the taxes be a portion? In addition, something should be placed in the code to provide guidance for dealing with personal property which is in the municipality for only a part of the year.

AS 29.53.180

This section should be changed to reflect a reasonable interest rate and a penalty which is substantially above the interest.

AS 29.53.415 and .440

Something needs to be added to these sections to take care of the problem created by the Alaska Supreme Court when it ruled that there was no statutory authority for a general law municipality to establish a lead for sales taxes.

AS 29.73.020

This section needs to be divided into two subsections to separate the procedures for home rule and general law municipalities from those for second class municipalities. Presently, there is some question as to whether the last two sentences of the section apply only to second class cities or whether it applies to all municipalities.

29.08

Although an attempt has been made in this Chapter to classify the various kinds of Alaskan municipalities, more recent amendments to Title 29 and unification of several cities and boroughs have resulted in confusion over definitions of "cities", "boroughs", and "municipalities". It is not clear, for instance, whether the unified Municipality of Anchorage is a city, a borough, or unified municipality or all three forms of government within existing provisions of AS 29.

29.13.100

The Code should contain a uniform system for designating statutes that expressly apply to home rule municipalities and all such statutes should be consistently cross referenced.

29.23.050

The statutory residence requirement prescribed in this section is probably invalid. It is suggested that such residence requirements throughout AS 29 be reduced to a maximum of one year.

29.23.060(d)

Circumstances, other than financial interests, which allow a member to abstain should be better defined.

29.23.080

The procedure for determining vacancies under this section conflicts with the procedure established under AS 29.23.570.

29.23.130(B)

Once again, the three residency requirement in this section should probably be reduced to one year to assure its constitutional validity.

29.23.150 and AS 29.23.470

Both require assembly appointment of an acting borough manager in the absence of or disability of the manager. If these sections address different policy questions, they are unclear; if they do not, one should be eliminated as redundant.

29.23.170

This provision does not specify when a veto becomes effective or specify any time limit for the overriding of the veto. Moreover, it does not indicate what is the status of an ordinance between the time its veto is announced and the time the Assembly first has an opportunity to override the veto. For instance, if the mayor vetos a line item in the budget, may expenditures be made under that item until the mayor announces the veto at the next regular assembly meeting, or does the veto immediately strike the item until the veto is overridden?

The three year residency requirement here is also probably invalid.

29.23.210

As with the provisions for boroughs, this section should provide more definite standards for abstention on other than conflict of interest grounds.

29.23.250

Another probably invalid three year residency requirement.

29.23.270

This provision has the same ambiguities with regard to the effectiveness of a veto and a veto override as the provision applying to boroughs.

29.23.555

This section has been superceded by AS 39.50.

29.28.070(b)

Reference to "last general election" in this subsection is unclear; considerable confusion has existed in the past over whether the term refers to the last state or municipal election.

29.28.130 et seq

Statutory provisions governing recall contents do not clearly define signature requirements by distinguishing between at large and district forms of representation. AS 29.28070(b) should be redrafted to state required percentages of votes cast for Assemblymen who are elected in districts and who are elected at large.

29.33.070--245

Serious thought should be given to the purpose of the planning, platting and zoning provisions in this code. Should they only prescribe minimum due process standards for rezonings and other land use decisions or should they detail all of the administrative procedures to be followed by local governments in this area. This article presently tries to do little of both and does neither very well.

29.33.190

This section makes it unlawful for any person to sell or attempt to sell land located within a subdivision which has not yet been approved by the borough platting authority and subjects violators to certain criminal sanctions. But AS 29.53.100 requires that the borough assessor assess real property to "the owner of record as shown on the records of the district recorder" even though that person may be the owner of record by virtue of an illegal subdivision in violation of AS 29.33.190. Moreover, AS 29.53.310 allows persons holding security interest in illegally subdivided lands

29.33.070

It is unclear whether platting powers can be delegated to a second class borough or a city within the borough under this section.

29.33

The current language of this chapter, as it incorporates a traditional definition of zoning and makes zoning along with platting the principal means of land use regulations, is unduly restrictive and should be revised to allow more innovative forms of land use regulation by boroughs and municipalities.

29.33.250

Presumably the transfer required is one from all cities exercising the power rather than from a city.

29.33 and 29.38

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities)?

29.48.030(b) AS 29.48.035(b) and (c)

These provisions are redundant. The limitations on the powers of second class boroughs should be stated in a more concise fashion in one easily accessible part of the code.

Moreover, AS 29.48.030 and .35, inasmuch as those sections distinguish between "regulation" and provision of "municipal facilities and services", are at the very least confusing and perhaps unnecessary.

Reference to powers granted to second class boroughs to construct and maintain Local Service Roads and Trails under AS 19.30.251 should be made in this section.

Reference to the power granted to local governments to regulate use of public streets, alleys and other public places under AS 42.05.251 should be made in AS 29.48.035 or AS 29.48.020.

29.48.030(a)(12)

The term transportation "system" used in this section should be defined.

29.48.260

Provisions of this section governing disposal of municipal properties should be clarified and revised to reflect increased land values throughout the state, to state who makes determinations of the value of land offered for sale and the date upon which such valuations must be based. Moreover,

29.58.135

The language regarding the composition of the Board of Equalization is unclear. The statute presently requires "at least that number of members of the assembly over and above the number required for a quorum to transact business"; the statute is unclear when applied to a lay board to whom the equalization function is delegated.

29.53

Should be amended to require payment of all taxes, even those due for more recent assessments on properties whose owners have requested issue of a quitclaim repurchase deed. Present law mandates issue of a quitclaim repurchase deed to the owner of record upon payment of those taxes assessed for the tax year stated in the clerk's deed even though the same property is the subject of other foreclosure proceedings brought in subsequent years. An amendment to AS 29.53 which would require payment of all taxes owing on a parcel before a quitclaim repurchase deed can be issued would eliminate substantial confusion in the minds of taxpayers, and would reduce administrative complexity for borough finance departments presently confronted with multiple foreclosure actions on the same parcels.

29.63.090

The present statute governing service areas does not adequately address the question of whether a service area may be used for exercise of a governmental regulatory power rather than for provision of municipal or services.

8.60.050-100

Regulation of junk yards in this section should be cross-referenced to those sections of Title 29. relating to areawide planning, platting and zoning powers.

9.25.110-120

It is unclear whether public records statutes apply at all to municipal government. If it is the intention of the Legislature to apply the public records laws of AS 9.25.110-120 to cities and boroughs, then those sections should be amended accordingly with an appropriate cross references to Title 29.