

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2
775 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) All copies of a petition shall be assembled and filed as a single instrument. Within 10 days after 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 supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

(c) Within 10 days after a 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 10 days to gather the signatures. They may not use signatures which were gathered prior to the first filing but not submitted, and 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.

No discussion

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

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.

No discussion

Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days after the certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If the assembly or council adopts substantially the same measure, the petition is void and the matter initiated shall not be placed before 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.

(d) If a majority vote favors the ordinance or resolution it becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution approved by the voters.

EXPLANATION: The changes allow for the submission of an initiative measure to the voters within 75 days after certification of a petition rather than requiring that the vote be delayed until the next regular election. The 45 day requirement was added to insure that a petition certified after the legal notices of a regular election were published does not complicate the election. 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 may reject a petition. An areawide vote is required whether the matter initiated is areawide or nonareawide because a service area should not be allowed to become autonomous.

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 all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days of certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(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 has been suspended, becomes effective upon certification of the election.

EXPLANATION: The ability to suspend an ordinance or resolution which has taken effect when a petition is filed within 30 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 that is covered under AS 29.13.080. All questions are submitted to an areawide vote.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.180. EFFECT. (a) An ordinance or resolution may not be repealed within one year of its effective date if adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed. The ordinance or resolution may be amended at any time.

(b) If an ordinance or resolution is repealed in a 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.

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

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.210. RECALL. (a) An official who is elected or appointed to an elective municipal office may be recalled by the voters after he has served six months of the term for which elected or appointed.

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

EXPLANATION: The possibility of recalling an official who has been appointed to an elective position has been added. The date to be used in determining when the six month period has run has been clarified.

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

*) OR misconduct in office.

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.

Larson
Issue:

Republican form of govt vs. participatory democracy.

Issue:

Should be some method for adjudication of charges on recall petition. Too unwieldy

KOHLER mo:

Retain

add. "or other grounds as may be established by local ordinance"

Discussion of Constitutionality

Withdrawn

~~Larson~~ Parr moves to accept language rec'd by Tech / carries

Branson. amend motion *
Failed - Amend.

Sharp
written
re: grounds

OK'd
29 Nov

Sec. 29.30.225. APPLICATION FOR RECALL PETITION. (a) An application for a recall petition shall be filed with the municipal clerk and shall contain

(1) the signature and residence addresses of at least 10 municipal 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.

(b) Additional sponsors may be added at any time prior to filing the petition by submitting their names to the clerk.

EXPLANATION: This is a new section which describes the requirements for an application for recall petition.

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, he shall prepare a recall petition. All copies of the petition shall contain

- (1) the name of the official sought to be recalled;
- (2) the statement of the grounds for recall as set forth in the application for petition;
- (3) the date the petition is issued by the clerk;
- (4) notice that signatures must be secured within 60 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;
- (6) 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, 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 sets out requirements similar to those relating to the content of initiative and referendum petitions. Requiring the clerk to prepare the petition and supply copies insures that each copy is complete and legible. A petition must be filed within 60 days after the petition is issued rather than 60 days after the date of the earliest signature on the petition.

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.30.230(a)(6) 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 held prior to issuance of the petition. 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 held prior to issuance of the petition. The clerk shall determine the number of signatures required on a petition and shall inform each sponsor.

(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: Which election to be used as a standard for determining the number of signatures required is clarified. 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 copies of a petition shall be assembled and filed as a single instrument. Within ten days after 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 supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition which does not contain an adequate number of signatures, both valid and invalid, may not be supplemented and 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.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.260. NEW RECALL PETITION. The rejection of a recall petition for any reason does not preclude the filing of a new petition. However, a new application for a petition to recall the same official 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.

OK

Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days but not sooner than 45 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 occurs within 75 days the assembly or council shall hold a special election on the recall question within 75 days but not sooner than 45 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 recall question shall not be submitted to the voters. The assembly or council may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming him.

EXPLANATION: The 45 day 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 ALTERED BY THE POLICY GROUP - 10 & 11 November 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) a statement by the official named on the recall petition of 200 words or less if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? YES () NO ()".

EXPLANATION: This section makes reference to the fact that each statement is limited to 200 words or less and provides that the statement of the official if published before the election will appear on the ballot.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 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 at least 20 days notice shall be given notwithstanding an ordinance or charter provisions 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.

OK

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.

OK

Sec. 29.30.330. SUCCESSORS. (a) If an official is recalled from the assembly or council, the assembly or council, by 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 all but two members of the assembly or council are recalled, each remaining member shall appoint a qualified person to fill a vacancy created by the recall. Additional persons may be appointed to fill vacancies by the affirmative vote of a majority of the remaining members and their appointees.

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

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

(f) If an official is recalled the clerk, without further action by the assembly or council, shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date the recall election is certified, except that if a regular or special election occurs within 75 days after certification and the certification occurs at least 20 days prior to the last date upon which a first notice of the election must be published, the successor shall be chosen at that election.

(g) Nominations for a successor may be filed until seven days prior to the last date upon which a first notice of the election must be published. Nominations may not be filed before the certification of the recall election.

EXPLANATION: This section has been expanded to prevent a local government from having to attempt to operate without a quorum of elected officials. Subsections (f) and (g) were changed to take into account time periods required for election notice and nominations.

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.

LARSON move elim. last sentence
Second

PARR obj. feels it is desirable

BEER'S sugg "unless no ^{qual.} voter is willing to serve"...

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.

29.30.040

A judge shall be a res. unless no qual. is willing to serve.

Motion Carries

OK

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.

*Not binding on HR
No objection.*

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.

40% runoff: What happens if mun. doesn't have any ordinance? Intent is to provide if no ordinance. Motion by Beens to accept intent. Amend. carried

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.

(3) ^{added} ~~exp~~ as putting in proper place in process.
SHORTEN process. Issue is one of timing.
No objections.

wording
Add[^] sponsors before filing of petition
other may be added
Berns move passed

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^A 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.

Parr moves to delete: Motion w/d.

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.

*Parr - (6) objects. Unnecessary restrictions
Cook agrees. MORE RESTRICTIVE THAN STATE.*

*Dimmick move:
delete - " *
vote - ayes*

*Burns moves to
add
15 (c) each pg will contain
summary
carried*

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980 ^{2.}

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. *Motion Walker after carried*

(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.

*1. Parer - why 25 & 15, not 15 across the board?
moved: voted on - failed*

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.

(c) 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.

*Walker (b) "amended or deleted
motion. Amend carries.*

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.

Discussion:

Branson motion. Sec 160 will be amended to follow procedures as stated in sec. 170 "tracking" for putting on

Berns motion - clarify fact of areawide vote. no obj. carried

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. *ALL VOTERS - Burns motion carried*

(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.

*upon certification of the election.
Burns motion. ↑ carries*

EXPLANATION: The ability to suspend an ordinance or resolution which had taken effect when a petition is filed within ~~30~~ 30 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. *It may be amended at any time* ^{See Motion.}

(b) If an ordinance or resolution is repealed in an ^{carries} 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.

Discussion:

Why bar assembly or council 2 yrs AS opposed to group only 6 mo? KOHLER

Stricter than state.

Inconsistent between initiative (2 yrs) & ref (1 yr) (state law).

Override

Par: moved I.E.R, assy or council, 1 yr prior to being altered or amended.
carried.

Review: Issue: Amend but not repeal by legislative body (STATE).

Motion: Amend to motion.
Conforms to state const.

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.

KOHLER: Any elected body should be subject to recall.

Administrative Functions certainly have direct effects on populace.

Without recall, no recourse to get rid of person unhappy with.

Tische:

Level of matters handled not worth expensive process.

KOHLER: Motion - ~~Dft. Ing. As presented~~ delete sugg. draft language and retain current language.

Pan: amend to add six mon. mov.

Motion carried (Kohler)

Baird directs
bring
wording
if not
to clarify
Benier

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.~~

TECH. RECC. This motion ruled by chair

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.

Par moved to amend (1) to provide for additional sponsors (see ^{language} 29.30.095) no obj. passed.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, 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~~
~~60~~ 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 * (10) 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.

* delete to conform to 29.30.110

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.

KOHLER moves: clerk only certifies petition, does not prepare - TABLED For 200 word discuss.
Discussion MOTION FAILED VOTE #1

- Tech Comm. wording for clerk not present

KOHLER - moves to delete all ref to recall being able to rebut.
Discussion - passed

Hand: 30 days, 35 to 60 days change - carried

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within ~~30~~⁶⁰ days of the date the clerk issues the petition. The statement provided under AS 29.30.230(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,^x 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,^x 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.

Motion
Par: How what is the number of signatures? Clerk's responsibility to determine & inform the petitioner. Carries (see pg 26).

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.

Moved (5) pg 26. carried
Waiker add (b). For that office "prior to filing of the petition" amend. carries
issuance
Larson: motion "last regular municipal election" WITHDRAWN. Solomon objects. LARSON objects to objection.

Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The page of a petition shall be assembled and filed as a single instrument. Within ten days ^{after *2} 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.

*Dimmick moved *1 carries*
*Walker moved *2 carries*

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.

KOHLER: better language than "on its face"
to Tech

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.260. NEW ^{RECALL} 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.

OK

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~~^{45*} 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~~^{45*} 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.

Parr
Letok moves, carries.*

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.

*Sub (2) will be deleted to conform
to (see pg 26).
Par moves ~~4~~ 5, carries*

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 *not less than 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.

*Beens moves *, carries.*

*Notice of election vs. 45 day reg.
Tech comm review.*

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.330. SUCCESSORS. (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.

(e) If an official is recalled the clerk shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date of certification of the recall election, except that if a regular or special election occurs within 75 days of the certification of the recall election and the certification occurs at least 20 days prior to the latest date upon which first notice of the election must be published, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this section; provided, nominations may be filed until the later of seven days before the latest date upon which first notice of the election must be published or the deadline for the filing of nominations for regular elections. Nominations may not be filed before the certification of the recall election.

Dimmick moves to have Tech Comm redraft
carries

EXPLANATION: This section has been expanded to prevent a local government from having to attempt to operate without a quorum of elected officials. Section (e) was changed to take into account times required for election notice and nominations.

Par. moves to direct Tech Comm to clean up (e) carries

moved to direct Tech Comm to clarify clerk's duties independent action

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 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. Unless no qualified voter is willing to serve, 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 following language was deleted as a duplication of AS 29.30.040: "The municipality may not alter voter qualification requirements of this title." Subsection (b), making this applicable to home rule municipalities, was deleted.

CHAPTER 30. ELECTIONS~~(CHAPTER 28. ELECTIONS)~~

Article 1. REGULAR AND SPECIAL ELECTIONS

Sec. 29.30.010. (Sec. 29.28.010.) ADMINISTRATION. (a) The borough assembly or city council shall prescribe the general rules for conducting municipal elections and appoint at least three judges for each polling place. The municipality may not alter voter qualification requirements of this title.

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

Sec. 29.30.020. (Sec. 29.28.015.) NOMINATIONS. (a) The assembly or council shall provide by ordinance for nominations of elected officers by providing for declaration of candidacy, or petition requiring the signatures of not more than 10 voters, or both.

(b) A person may be nominated for and occupy more than one office, but he may not serve simultaneously as borough mayor and as a member of the borough assembly or as mayor and as a member of the council of a first class city.

Sec. 29.30.030. (Sec. 29.28.020.) ELECTION DATES. (a) The date of a regular municipal election is the first Tuesday of October annually, or on a date of election or at an interval of years provided by ordinance.

(b) The assembly or council may call a special election upon at least 20 days notice.

Sec. 29.30.040. (Sec. 29.28.030.) VOTER QUALIFICATION. A person may vote only if he is a United States citizen who is qualified to vote in state elections and has been a resident of the municipality for 30 days immediately preceding the election and who is registered to vote in state elections and is not disqualified under art. V of the state constitution. Voter registration by the municipality may not be required. This section

LA-L 20 applies to home rule and general law municipalities.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.050. MAJORITY ELECTIONS. (a) Unless otherwise provided by ordinance, there shall be 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 a municipal official.

(c) Unless otherwise provided by ordinance, a runoff election shall be held within three weeks after 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 requirement has been altered to apply to certain offices only and liberalized to allow a municipality to provide otherwise by ordinance. The provisions specifying when a runoff must be held and notice requirements are no longer mandatory. In addition, the procedure set out in (c), for the benefit of a municipality which desires specific procedural guidance, has been changed to provide three weeks before the runoff is held rather than two. The additional time would enable cities within boroughs to coordinate their runoff elections.

1 Sec. 29.30.050. (Sec. 29.28.040.) MAJORITY ELECTIONS. If in a
2 municipal election no candidate receives in excess of 40 per cent of the
3 votes cast for his respective office, the assembly or council shall hold a
4 runoff election within two weeks from the date of certification of the
5 election between the two candidates receiving the greatest number of votes
6 for the office. Notice of a runoff election shall be published at least
7 five days before the election. The assembly or council may by ordinance
8 require a majority vote for election of officials. A runoff election or
9 other means of obtaining a majority may be used.

10 Sec. 29.30.060. (Sec. 29.28.050.) ELECTION CONTEST AND APPEAL. (a)
11 The assembly or council may provide by ordinance the time and procedure for
12 the contest of an election.

13 (b) Unless otherwise provided by ordinance, an election may be
14 contested only upon the filing, before or at the time of the first canvass
15 of ballots by the assembly or council, by a person qualified to vote in the
16 municipality of his written affidavit specifying with particularity the
17 grounds for the contest or invalidity of the election.

18 (c) Unless otherwise provided by ordinance, the assembly or
19 council shall declare the election results at the first meeting to canvass
20 the election and record the results in the minutes of that meeting.

21 (d) The contestant shall pay all costs and expenses incurred in a
22 recount of an election demanded by the contestant if the recount fails to
23 reverse any result of the election or the difference between the winning and
24 a losing vote on the result contested is more than two percent.

25 (e) No person may appeal or seek judicial review of a city or
26 borough election for any cause or reason unless the person is qualified to
27 vote in the municipality, has exhausted his administrative remedies before
28 the assembly or council and has commenced, within 10 days after the assembly
29 or council has finally declared the election results, an action in the

5

EXPLANATION: This is a new section. The first part is modeled after section two of the initiative article in the state constitution. Sponsors of a petition would be required to register with the clerk. The clerk would review an initiative for substantive legality, with his decision subject to immediate appeal. This allows for a judicial determination of the legality of an initiative prior to incurring the expense of an election on it.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.095. APPLICATION FOR PETITION. (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the bill to be initiated or the act to be referred and the address to which all correspondence relating to the application may be sent. An application shall be signed by at least ten municipal voters who will sponsor the petition. Other sponsors may be added at any time prior to filing the petition by submitting their names to the 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 be enforceable as a matter of law.

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

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. Each copy of 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 after the date the petition is issued;

(5) contain spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses 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, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) If a petition is composed of more than one page, each page shall contain the summary of the bill to be initiated or the act to be referred.

(c) 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.

1 superior court in the judicial district in which the municipality is
2 located. If no such action is commenced within the 10-day period, the
3 election and election results shall be conclusive, final and valid in all
4 respects.

5 (f) Notwithstanding the provisions of (e) of this section,
6 the expulsion of a member of a borough assembly under AS 29.24.150(c) AS
7 29.23.060(c)], of a member of a city council under AS 29.24.290(b)
8 [29.23.210(b)], of a borough mayor under AS 29.24.200(f) [29.23.130(f)], or
9 of a city mayor under AS 29.24.350 (29.23.255) is final and is not subject
10 to judicial review.

11 Article 2. INITIATIVE AND REFERENDUM

12 Sec. 29.30.090. (Sec. 29.28.060.) RESERVATION OF POWERS. The powers
13 of initiative and referendum are reserved to the residents of municipalities
14 except the powers do not extend to matters restricted by Sec. 7, art. XI, of
15 the state constitution.

16 Sec. 29.30.100. (Sec. 29.28.062.) PETITION. A petition for
17 initiative or referendum is filed with the municipal clerk and an initiative
18 petition must be filed not less than 90 days before the next regular
19 election.

20 Sec. 29.30.110. (Sec. 29.28.065.) CONTENTS OF PETITION. A petition
21 for an initiative or referendum shall

- 22 (1) embrace only a single comprehensive subject;
23 (2) set out fully the ordinance or resolution sought by the
24 petition;
25 (3) state upon the petition, when circulated, the date of first
26 circulation of the petition;
27 (4) contain the statement, when circulated, that the signatures
28 on the petition must be secured within 90 days from the date of the first
29 circulation;

EXPLANATION: The 60 day signature gathering period is carried forward. While the possibility of an initiative or referendum on a matter which affects only a service area is not eliminated, such petitions contain the same number of signatures as a petition on an areawide matter. Permitting a service area to initiate 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. Additional changes require rejection of a signature not accompanied by a legible residence address and 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 ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) All copies of a petition shall be assembled and filed as a single instrument. Within 10 days after 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 supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

(c) Within 10 days after a 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 10 days to gather the signatures. They may not use signatures which were gathered prior to the first filing but not submitted, and they may not use signatures gathered during the period in which the clerk is checking the petition.

1 (5) have the required signatures, dates of signatures and
2 resident addresses of the signers.

3 Sec. 29.30.120. (Sec. 29.28.070.) REQUIRED SIGNATURES. (a) The
4 necessary signatures on a petition shall be secured within 90 days from the
5 date of the first circulation of the petition. The petition shall be signed
6 in ink or indelible pencil.

7 (b) Every petition for either the initiative or referendum in the
8 government of a municipality shall be signed by a number of qualified voters
9 residing within the territorial limits of the municipality, or, if the act
10 sought to be initiated or referred pertains exclusively to the area outside
11 cities or to a service area, by a number of qualified voters residing within
12 the area outside cities or within the service area, as the case may be,
13 equal to the following percent of the total number of votes cast at the last
14 general election in the city or borough or borough area concerned, or
15 special election called for the purpose of electing city or borough
16 officers:

17 (1) 25 percent, when a city or borough has fewer than 7,500
18 persons, or

19 (2) 15 percent, when a city or borough has 7,500 persons or
20 more.

21 (c) When signing a petition each voter shall write or print after
22 his signature the date of signing the petition and his resident address.

23 (d) Illegible signatures unless accompanied by a legible printed
24 name may be rejected by the municipal clerk.

25 (e) A petition signer may withdraw his signature upon written
26 application to the clerk within seven days after the petition has been filed
27 with the clerk.

28 Sec. 29.30.130. (Sec. 29.28.073.) SUFFICIENCY OF PETITION. (a)
29 Within 10 days from the filing date, the municipal clerk shall certify on
LA-lt20 petition whether or not it is sufficient.

1 (b) If the petition is insufficient, it may be amended or sup-
2 plemented within 10 days after the date on which the petition is rejected as
3 insufficient.

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

7 Sec. 29.30.140. (Sec. 29.28.075.) PROTEST. If the municipal clerk
8 certifies the petition is insufficient, a signer of the petition may file a
9 protest with the municipal executive within seven days after the
10 certification and the municipal executive shall present the protest at the
11 next regular meeting to the assembly or council which shall hear and decide
12 the protest.

13 Sec. 29.30.150. (Sec. 29.28.077.) NEW PETITION. Failure to secure
14 sufficient signatures does not preclude the filing of a new initiative or
15 referendum petition. However, a new petition may not be filed sooner than
16 six months after a petition is rejected.

17 Sec. 29.30.160. (Sec. 29.28.080.) PRESENTATION OF INITIATIVE. (a)
18 When a petition seeks enactment of an ordinance or resolution within the
19 powers of the assembly or council and not otherwise restricted by Sec. 60 of
20 this chapter, the clerk shall present it to the assembly or council at its
21 next meeting after certification. The assembly or council may reject the
22 petition if the subject matter of the initiative or referendum is within the
23 restrictions of Sec. 090 (Sec. 60) of this chapter.

24 (b) Unless the petition is granted within 30 days of its
25 submission to the assembly or council, the clerk shall, with the assistance
26 of the municipal attorney, prepare an ordinance or resolution to implement
27 the petition and shall submit it to the voters at the next regular election.
28 The ordinance or resolution shall be published in full in the notice of
29 election but may be summarized on the ballot to indicate clearly the

Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days after the certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If the assembly or council adopts substantially the same measure, the petition is void and the matter initiated shall not be placed before 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.

(d) If a majority vote favors the ordinance or resolution it becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution approved by the voters.

EXPLANATION: The changes allow for the submission of an initiative measure to the voters within 75 days after certification of a petition rather than requiring that the vote be delayed until the next regular election. The 45 day requirement was added to insure that a petition certified after the legal notices of a regular election were published does not complicate the election. 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 may reject a petition. An areawide vote is required whether the matter initiated is areawide or nonareawide because a service area should not be allowed to become autonomous.

1 (c) If a majority of those voting favor the proposal, it becomes
2 effective when the election results are officially declared.

3 (d) The assembly or council may at any time not less than 10 days
4 from the date of election adopt an ordinance or resolution to implement the
5 petition. In that event an election shall not be held.

6 Sec. 29.30.170. (Sec. 29.28.090.) PRESENTATION OF REFERENDUM. (a)
7 When a petition seeks a referendum vote on an ordinance or resolution, the
8 clerk shall submit the ordinance to the voters of the municipality at the
9 next regular or special election. If no regular or special election occurs
10 within 75 days of the filing of a sufficient petition with the clerk, the
11 assembly or council shall hold a special election within 75 days of filing.

12 (b) If a sufficient petition for referendum is filed within 30
13 days after final passage of the ordinance, or before the effective date of
14 the ordinance, the ordinance against which the petition is filed shall be
15 suspended pending the referendum on the ordinance. During the period of
16 suspension the assembly or council may not enact an ordinance substantially
17 similar to the suspended ordinance but may repeal the suspended ordinance.

18 (c) If a majority of those voting favor the referendum legis-
19 lation, it remains in effect. If a majority rejects the legislation, it is
20 repealed. A municipal charter may be amended as provided in the charter or
21 by initiative and referendum as provided in Secs. 090-180 (Secs. 60-110) of
22 this chapter.

23 Sec. 29.30.180. (Sec. 29.28.110.) EFFECT. (a) The assembly or
24 council may not, within two years, act in any way to modify or negate the
25 effect of a successful initiative or referendum. If an ordinance against
26 which a referendum is directed has been repealed by the assembly or council
27 after a petition has been filed but before the referendum, the council or
28 assembly may not enact substantially similar legislation for a period of one
29 year after repeal.

EXPLANATION: The ability to suspend an ordinance or resolution which has taken effect when a petition is filed within 30 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 that is covered under AS 29.13.080. All questions are submitted to an areawide vote.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 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 all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days of certification of a petition, the assembly or council shall hold a special election within 75 days, but not sooner than 45 days after certification.

(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 has been suspended, becomes effective upon certification of the election.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.180. EFFECT. (a) An ordinance or resolution may not be repealed within one year of its effective date if adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed. The ordinance or resolution may be amended at any time.

(b) If an ordinance or resolution is repealed in a 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.

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

See notes
for Larson's
(C) pg 23

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.210. RECALL. (a) An official who is elected or appointed to an elective municipal office may be recalled by the voters after he has served six months of the term for which elected or appointed.

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

EXPLANATION: The possibility of recalling an official who has been appointed to an elective position has been added. The date to be used in determining when the six month period has run has been clarified.

EXPLANATION: This is a new section which describes the requirements for an application for recall petition.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, he shall prepare a recall petition. All copies of the petition shall contain

- (1) the name of the official sought to be recalled;
- (2) the statement of the grounds for recall as set forth in the application for petition;
- (3) the date the petition is issued by the clerk;
- (4) notice that signatures must be secured within 60 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;
- (6) 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, 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 sets out requirements similar to those relating to the content of initiative and referendum petitions. Requiring the clerk to prepare the petition and supply copies insures that each copy is complete and legible. A petition must be filed within 60 days after the petition is issued rather than 60 days after the date of the earliest signature on the petition.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.225. APPLICATION FOR RECALL PETITION. (a) An application for a recall petition shall be filed with the municipal clerk and shall contain

(1) the signature and residence addresses of at least 10 municipal 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.

(b) Additional sponsors may be added at any time prior to filing the petition by submitting their names to the clerk.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.30.230(a)(6) 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 a}~~percent~~ ^{equal to 35} of the voters residing within the municipality ~~based on~~ ^{percent} the number of votes cast at the last regular election for that office held prior to issuance of the petition. If a petition seeks to recall an official who represents a district, the petition shall be signed by ^{a number}~~35 percent~~ ^{equal to 35 percent of} of the voters residing within the district ~~based on~~ the number of votes cast at the last regular election for that office held prior to issuance of the petition. The clerk shall determine the number of signatures required on a petition and shall inform each sponsor.

(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: Which election to be used as a standard for determining the number of signatures required is clarified. 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.

1 (b) An unsuccessful initiative or referendum precludes the filing
2 of a new petition for the same purpose sooner than six months after voter
3 disapproval of the initiative or referendum.

4 Article 3. RECALL

5 Sec. 29.30.210. (Sec. 29.28.130.) RECALL. An elected official of a
6 home rule or general law municipality may be recalled by the voters after he
7 has served six months in office.

8 Sec. 29.30.220. (Sec. 29.28.140.) GROUNDS. Grounds for recall are
9 misconduct in office, incompetence, or failure to perform prescribed duties.

10 Sec. 29.30.230. (Sec. 29.28.150.) PETITION. (a) A petition seeking
11 recall of one or more municipal officials is filed with the municipal clerk.
12 The petition shall contain

13 (1) the signatures and resident addresses of a number of
14 voters as prescribed in Sec. 120(b) [Sec. 70(b)] of this chapter for
15 initiative and referendum;

16 (2) the date each voter signed the petition; and

17 (3) a statement of the grounds of the recall stated with
18 particularity as to specific instances.

19 (b) A petition for recall must be filed with the clerk within 60
20 days after the date of the earliest signature on the petition.

21 Sec. 29.30.240. (Sec. 29.28.160.) EXAMINATION FOR SUFFICIENCY. The
22 municipal clerk shall review the petition for content and signatures and
23 shall certify on the petition within 10 days of the filing date whether it
24 is accepted or rejected. Until the petition is accepted, a petition signer
25 may withdraw his signature upon written application to the clerk.

26 Sec. 29.30.250. (Sec. 29.28.170.) SUPPLEMENTAL PETITION. (a) If the
27 petition is rejected because of insufficient signatures, it may be
28 supplemented by additional signatures within 10 days after the date of
29 rejection. If the petition is insufficient for any other reason, it shall
LA-Lb20 rejected and filed as a public record.

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 ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

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

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

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.

EXPLANATION: The 45 day 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 ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days but not sooner than 45 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 occurs within 75 days the assembly or council shall hold a special election on the recall question within 75 days but not sooner than 45 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 recall question shall not be submitted to the voters. The assembly or council may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming him.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 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) a statement by the official named on the recall petition of 200 words or less if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? YES () NO ()".

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 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 at least 20 days notice shall be given notwithstanding an ordinance or charter provisions to the contrary.

DRAFTED CHANGES ALTERED BY THE POLICY GROUP - 10 & 11 November 1980

Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The copies of a petition shall be assembled and filed as a single instrument. Within ten days after 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 supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition which does not contain an adequate number of signatures, both valid and invalid, may not be supplemented and 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.

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

4 Sec. 29.30.260. (Sec. 29.28.180.) NEW PETITION. Failure to secure
5 sufficient signatures does not preclude the filing of a new recall petition.
6 However, a new petition may not be filed sooner than six months after a
7 petition is rejected.

8 Sec. 29.30.270. (Sec. 29.28.190.) SUBMISSION. If a recall petition
9 is sufficient, the clerk shall immediately submit it to the assembly or
10 council.

11 Sec. 29.30.280. (Sec. 29.28.200.) ELECTION. (a) If a regular
12 election occurs within 75 days of the submission, the assembly or council
13 shall submit the recall at that election.

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

17 (c) If a vacancy occurs in the office after a recall petition is
18 filed, the petition shall not be submitted to the voters.

19 Sec. 29.30.290. (Sec. 29.28.210.) FORM OF RECALL BALLOTS. A recall
20 ballot contains:

21 (1) the grounds as stated in the recall petition;

22 (2) the officer's statement of 200 words or less, if the
23 statement is filed with the clerk for publication and public inspection
24 within 20 days before the election;

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

27 Sec. 29.30.300. (Sec. 29.28.220.) ELECTION PROCEDURE. Procedures for
28 conducting a recall election are those of a regular election.
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Sec. 29.30.330. SUCCESSORS. (a) If an official is recalled from the assembly or council, the assembly or council, by 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 all but two members of the assembly or council are recalled, each remaining member shall appoint a qualified person to fill a vacancy created by the recall. Additional persons may be appointed to fill vacancies by the affirmative vote of a majority of the remaining members and their appointees.

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

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

(f) If an official is recalled the clerk, without further action by the assembly or council, shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date the recall election is certified, except that if a regular or special election occurs within 75 days after certification and the certification occurs at least 20 days prior to the last date upon which a first notice of the election must be published, the successor shall be chosen at that election.

(g) Nominations for a successor may be filed until seven days prior to the last date upon which a first notice of the election must be published. Nominations may not be filed before the certification of the recall election.

1 Sec. 29.30.310. (Sec. 29.28.230.) MAJORITY REQUIRED. A majority vote
2 on the question is required to recall an officer.

3 Sec. 29.30.320. (Sec. 29.28.240.) EFFECT. If an incumbent is not
4 recalled at the recall election, a petition to recall the same incumbent may
5 not be filed sooner than six months after the recall election.

6 Sec. 29.30.330. (Sec. 29.28.250.) ELECTION OF SUCCESSOR. If the
7 voters recall an officer, the clerk shall conduct an election for a
8 successor to fill the unexpired term. The election shall be held at least
9 10 but not more than 45 days from the date of the recall election. However,
10 if a regular or special election occurs within 75 days of the recall
11 election, the successor to the recalled official shall be chosen at that
12 regular or special election. The procedures and requirements for the
13 regular election for the office from which the incumbent is recalled apply
14 to the election conducted under this section.
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EXPLANATION: This section has been expanded to prevent a
local government from having to attempt to operate without a
quorum of elected officials. Subsections (f) and (g) were
changed to take into account time periods required for
election notice and nominations.

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

~~Russ~~ Lee Sharp

TITLE 29 REVISION

PROPOSAL FOR INITIATIVE AND REFERENDUM
(Formerly AS 29.28.060-110)

October 20, 1980

29.30.090 Reservation of Powers. The powers of initiative and referendum are reserved to the residents of municipalities except the powers do not extend to matters restricted by §7, art. XI of the State Constitution.

(Unchanged.)

29.30.095 Application. An initiative or referendum is proposed by an application containing the legislative matter to be initiated or referred. The application shall be signed by not less than ten qualified voters as sponsors, shall contain the address to which all correspondence relating to the application may be sent, and shall be filed with the clerk. The clerk shall certify the application if he finds that the application is in proper form, and in addition, if the application is for an initiative, that the matter to be initiated is not restricted by §90, embraces only a single subject, and as to each part, would not be unenforceable as a matter of law. The clerk's certification or denial of certification shall be subject to judicial review.

(This section is new. The first part is modeled after §2 of the initiative article in the state constitution. As drafted, this section would also make it clear that the clerk is to review initiatives for substantive legality and that the clerk's decision is subject to appeal. This procedure will allow for a judicial determination of the legality of an initiative prior to the expense of an election.)

1 29.30.110 Petition. After certification of the
2 application, a petition containing a summary of the subject
3 matter shall be prepared by the clerk for circulation by the
4 sponsors. The petition shall

5 (1) set out fully the ordinance or resolution
6 sought to be initiated or referred by the petition;

7 (2) state upon the petition the date first
8 issued by the clerk;

9 (3) contain the statement, when circulated,
10 that the signatures on the petition must be secured within
11 60 days of the date first issued;

12 (4) contain spaces for the required signatures,
13 the printed name of each person signing the petition, the
14 date of each signature, and both the resident and the mailing
15 address of each signer;

16 (5) contain a statement to be signed and
17 sworn to by the circulator stating the number of signatures
18 on the petition page or pages, that the circulator personally
19 circulated the page or pages, that all signatures were
20 affixed in his presence, that he believes them to be genuine
21 signatures of the persons whose names they purport to be,
22 that each signer had an opportunity before signing to read
23 the full text of the proposed initiative or referred measure,
24 and that he believes each signer to be a qualified municipal
25 voter.

26 (This section would require the clerk to provide
27 the petition forms to the petitioners. This is similar to
the requirement levied upon the Lieutenant Governor in state

1 initiative proceedings. The petition contents are essentially
2 the same as present law (AS 29.28.065) with a shortening of
3 the petition circulation time from 90 to 60 days, some
4 expansion of the information the petition signers must
5 provide, and the addition of the circulator's affidavit in
6 (5) of the section.)

7 29.30.120 Required Signatures. (a) The necessary
8 signatures on a petition shall be secured within 60 days of
9 the date the clerk first issues the petition. The petition
10 shall be signed in ink or indelible pencil.

11 (b) Every petition, whether dealing with an areawide
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1 or a non-areawide matter, shall be signed by a number of
2 registered voters residing within the territorial limits of
3 the municipality equal to 25 percent of the number of votes
4 cast at the last regular municipal election in the municipality
5 which was held on or prior to the date of the first issuance
6 of the petition.

7 (c) Illegible signatures shall be rejected by the
8 clerk unless accompanied by a legible printed name. Signa-
9 tures not accompanied by a legible residence address shall
10 be rejected.

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

14 (e) The petition pages shall be assembled and
15 filed as a single instrument.

16 (This section carries forward the 60 day signature
17 gathering period. Although it does not eliminate the
18 possibility of an initiative or referendum on a matter which
19 affects only a service area, it does require that such
20 petitions contain the same number of signatures as a petition
21 on an areawide matter. Permitting a service area to initiate
22 and vote upon a matter on a service area basis is contrary
23 to the concept of the service area being under the control
24 of the entire legislative body. If service areas are permitted
25 to initiate and vote upon service area only initiatives,
26 service areas will have the authority to become essentially
27 autonomous units of government without a governing body.
Other minor changes were made to require rejection of signatures
which were illegible or failed to have additional legible
information accompanying the signature.)

29.30.130 Sufficiency of Petition. (a) Within
ten days of the date the petition is filed, the municipal
clerk shall certify on the petition whether or not it is
sufficient.

1 (b) If the petition is insufficient, it may be
2 amended or supplemented with additional signatures which are
3 obtained within ten days after the date on which the petition
4 is rejected as insufficient.

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

9 (The only significant change is to make it
10 clear that in providing supplementary signatures, the petitioners
11 have only ten days to gather the signatures and may not use
12 petition 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.)

13 29.30.140 Protest. If the clerk certifies the
14 petition is insufficient, a signer of the petition may file
15 a protest with the municipal executive within seven days
16 after the certification and the municipal executive shall
17 present the protest at the next regular meeting of the
18 assembly or council which shall hear and decide the protest.

19 (No change.)

20 29.30.150 New Petition. Failure to secure sufficient
21 signatures does not preclude the filing of a new application for
22 an initiative or referendum petition. However, a new application
23 for a petition may not be filed sooner than six months after
24 the petition is rejected by the clerk.

25 (This section was changed slightly to take into
26 account the application procedure and to indicate that the
27 rejection from which the six months is counted is a rejection
by the clerk, not a rejection which might be deemed to have
occurred if the matter is appealed to the assembly and the
assembly sustains the clerk's rejection.)

1 29.30.160 Presentation of Initiative. (a) When a
2 petition seeks enactment of an ordinance or resolution
3 within the powers of the assembly or council and not otherwise
4 restricted by §90 of this chapter, the clerk shall present
5 it to the assembly or council at its next meeting after
6 certification. The assembly or council may reject the
7 petition if it determines the subject matter of the initiative
8 or referendum is within the restrictions of §90 of this
9 chapter or is unlawful.

10 (b) An initiative measure presented to the assembly
11 or council and not rejected under section (a) shall be
12 submitted to all the voters of the municipality at the next
13 regular municipal election held more than 45 days after
14 submission of the petition to the assembly or council,
15 unless the assembly or council adopts substantially the same
16 measure. If the assembly or council adopts substantially
17 the same measure, the petition shall be void and the question
18 shall not be submitted to the voters.

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

22 (The changes here allow for the submission of
23 an initiative measure at any time during the year, but it
24 would be placed before the voters at the first regular
25 municipal election occurring 45 days after submission to the
26 assembly or council, unless rejected for cause or adopted in
27 substantially the same form as presented. It also requires
an areawide vote whether the matter is areawide or non-areawide
for reasons outlined above.)

29.30.170 Presentation of referendum. (a) When a

1 petition seeks a referendum vote on a legislative ordinance
2 or resolution, the clerk shall submit the ordinance or
3 resolution to all the voters of the municipality at the next
4 regular or special election unless the assembly or council
5 repeals the ordinance or resolution to be referred. If no
6 regular or special election occurs within 75 days of the
7 certification of a sufficient petition by the clerk, the
8 assembly or council shall hold a special election within 75
9 days of filing.

10 (b) If a sufficient petition for referendum is
11 certified before the effective date of the ordinance or
12 resolution, the ordinance or resolution against which the
13 petition is filed shall be suspended pending the referendum
14 on the matter. During the period of suspension, the assembly
15 or council may not enact an ordinance or resolution substantially
16 similar to the suspended measure but may repeal the suspended
17 ordinance or resolution.

18 (c) If the assembly repeals the ordinance or
19 resolution before the election, the petition shall be void
20 and the referred measure shall not be placed before the
21 voters.

22 (d) If a majority of those voting favor the repeal
23 of the referred measure, it is repealed; otherwise, it
24 remains in effect or, if suspended under section (b), it
25 shall become effective upon certification of the election
26 results by the assembly or council.

27 (The ability to suspend an ordinance or resolution
which had taken effect if a referendum petition was filed

1 within 30 days of the passage of the ordinance or resolution
2 has been deleted to avoid the apparent ability of a part of
3 the voters to be able to exercise a temporary repeal of the
4 measure. The reference to amending a charter by initiative
or referendum was deleted as it is already covered under
AS 29.13.080. This also requires submission of the question
to the areawide voters for reasons outlined above.)

5 29.30.180 Effect. (a) The assembly or council may
6 not, within two years of its effective date, repeal an
7 ordinance or resolution adopted through the initiative
8 process nor may it amend such an ordinance or resolution in
9 a way to substantially modify or negate the effect of the
10 successful initiative.

11 (b) If an ordinance or resolution against which a
12 referendum is directed has been repealed by the assembly
13 or council after a petition has been filed but before the
14 referendum election, or if an ordinance or resolution is
15 repealed by the voters in a referendum election, the council
16 or assembly may not enact substantially similar legislation
17 for a period of one year after the repeal. A measure which
18 is repealed in a referendum election shall be repealed
19 effective upon the certification of the election results by
20 the assembly or council.

21 (c) An unsuccessful initiative or referendum
22 precludes the filing of a new application for the same or
23 substantially the same purpose sooner than six months after
24 the initiative or referendum election results are certified
25 by the assembly or council.

26 (Minor changes to make dates more certain and
27 to accommodate the petition application process.)

* * * * *

SCOMM

#23:33

Prepared by: Theodore D. Berns
Title 29 Technical Committee
January 2, 1981

CHAPTER 33. MUNICIPAL POWERS AND DUTIES

(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)

Article 1. GENERAL POWERS

Sec. 29.33.010. (Sec. 29.48.010.) GENERAL POWERS.

Municipalities have the following general powers, subject to other provisions of law:

29.33.010
a. (1) to establish and prescribe the functions of municipal departments, offices or agencies;

(2) to establish and prescribe salaries for the elected and appointed municipal officers and employees;

(3) to make investigations of the affairs of the municipality and make inquiries into the conduct of a municipal department;

(4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;

(5) to require periodic and special reports from a municipal department to be submitted through the municipal executive;

(6) to sue and be sued;

(7) to levy taxes and special assessments and to impose liens for the enforcement thereof;

(8) to enforce ordinances and to prescribe penalties for violations;

(9) to acquire, manage, control, use and dispose of real and personal property, whether or not the property is situated within or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area created under [AS 29.63.090(f)];

(10) to acquire membership in organizations which promote legislation for the good of the municipality;