

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

784 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

*up to
Tech*

Sec. 29.45.610. POWER OF LEVY. (a) A city within a borough which levies and collects a sales or use tax for areawide functions may levy a sales or use tax upon all sources taxed by the borough in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

(b) A city within a borough which does not levy and collect a sales or use tax for areawide functions may levy and collect a sales or use tax in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Repeal.

EXPLANATION: Material contained in AS 29.45.620 has been combined into AS 29.45.610. The section has been altered to insure that a city may create a lien to secure payment of a sales and use tax as is recommended in AS 29.45.570 for boroughs.

A city may collect a sales or use tax in the manner provided for a borough.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

NOT ACCEPTED

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

OK

Sec. 29.45.545. COMBINING PROPERTY TAX WITH INCORPORATION.
A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails.

EXPLANATION: This is a new section similar to the provision in 29.45.630 allowing an incorporation petition to be tied to imposition of a sales tax.

Walker
29.45.510.) carries
add:

(c) The assembly may correct
manifest clerical errors.
at any time.

OK

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.27.060. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed ¹/₁ fine of \$1,000 or imprisonment for 90 days, or both. By ordinance mandatory nonsuspendable imprisonment not to exceed five days may be imposed for violation of an ordinance. (However, ^{sub(c)} the punishment authorized under this ^{sub} section may be imposed only if copies of the ordinance are made available for distribution to the public at cost, ~~free~~)

Long
(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Every day upon which a violation of an ordinance continues shall constitute a separate violation.

(c).

EXPLANATION: In (a) the fine and the term of imprisonment have been increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, matching recommended remedies for enforcement of land use regulations.

1. BRANSON: CARRIES
2ND

not to exceed the penalty prescribed
by CLASS B Misdemeanor

2. COOK: CARRIES
2ND OR at not ~~least~~ as determined by the assembly
charge provided by ord. or council.

Beers

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

(8) tax, spend, and regulate for the purpose of
promoting ~~industrial~~ development.

1. *ECONOMIC*

The rest of the section is the same.

1. *Larson motion: carries*
2ND

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.270. SERVICE AREAS. (a) (First two sentences the same). Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, ¹ ~~unless~~ all owners of real property within the service area consent in writing to the exercise of the power.

No other changes to this section.

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

²¹⁰ Berns amendment: ^{carries} qualified voter.
1. OR if no ~~one~~ resides in the area,

OK

Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the assembly¹ or other municipal residents. The assembly shall by ordinance establish the qualifications for membership.

(b) The board is governed in its proceedings by rules adopted by ordinance which are consistent with general rules of administrative procedure. The board may alter an assessment of a lot or parcel only pursuant to an appeal filed as to the particular lot or parcel.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law ~~may~~^{shall} be appealed directly to the superior court.

EXPLANATION: Removes the requirement that the board consist of a number over that required for a quorum of the assembly in favor of requiring not less than three members. Requires that an assessment be altered only as a result of an appeal filed as to the lot in question. Allows a determination of the taxability of property (for example, land held by Indians or in trust for Indians may not be taxable at all under federal law) to be appealed to the superior court.

1. Walker, add ^{individuals} private and, or a combination thereof.
amend:) municipal residents,
carries

Sec. 29.51.410. BOROUGH INDEBTEDNESS. (a) A borough may incur indebtedness

(1) on an areawide basis for areawide functions;
or

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only.

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

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the area outside cities or of a service area, ^{is to be pledged} an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas and the full faith and credit of ¹the area ¹is pledged for the payment of the debt.

(d) no change.

*1. Walker motion
2nd CARRIES*

*1. voting
on the
indebtedness*

EXPLANATION: Minor technical clean-up in (a) and (b). Language at the end of (c) added to make it clear that a service area general obligation bond can be issued.

*See
TEXT 1164*

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. It creates a hardship on the smaller communities who may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there is always a possibility that they are void if the wrong person provided marketing assistance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

(8) tax, spend, and regulate for the purpose of promoting industrial development.

The rest of the section is the same.

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.270. SERVICE AREAS. (a) (First two sentences the same). Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, unless all owners of real property within the service area consent in writing to the exercise of the power.

No other changes to this section.

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a)
Home rule and first class cities outside first and second class
boroughs shall, and second class cities outside first and second
class boroughs may in whole or part, provide for planning, platting
and land use regulation within their boundaries, as provided by
AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third
class boroughs shall, and second class cities within third class
boroughs may in whole or part provide for planning, platting and
land use regulation, as provided by AS 29.42.010-29.42.150 for
boroughs.

EXPLANATION; Clarifies that a city may only plan for the
area within its boundary. Adds the provision that second
class cities may plan "in whole or part" as provided for
boroughs, so that it is clear that they are not forced into
an all or nothing situation.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES.

Repeal.

Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

Sec. 29.39.080. PENALTY FOR VIOLATION OF CURFEW. Repeal.

EXPLANATION: It is felt that these provisions are unnecessary and would be properly placed in the criminal code. (NOTE: These were in the criminal code as AS 11.60.250, 11.60.260, and 11.60.270 and moved to Title 29 effective January 1, 1980.)

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$1,000 or imprisonment for 90 days, or both. By ordinance mandatory nonsuspendable imprisonment not to exceed five days may be imposed for violation of an ordinance. However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Every day upon which a violation of an ordinance continues shall constitute a separate violation.

EXPLANATION: In (a) the fine and the term of imprisonment have been increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, matching recommended remedies for enforcement of land use regulations.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. It creates a hardship on the smaller communities who may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there is always a possibility that they are void if the wrong person provided marketing assistance.

✓ Sec. 29.24.160. DEPARTMENTS. Repeal.

✓ Sec. 29.24.515. DEPARTMENTS. (a) The governing body of a municipality may establish departments and distribute functions among them.

(b) Each department is administered by a department head. With the consent of the governing body, the mayor may serve as head of one or more departments or a single administrator may serve as head of two or more departments.

EXPLANATION: This new section is virtually identical to AS 29.24.160 except that stylistic changes apply this section to both cities and boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

✓Sec. 29.24.200 (e) Repeal.

✓Sec. 29.24.640. INTERGOVERNMENT APPOINTMENTS. A borough adopting a manager plan may, by agreement with a city, enter into a contract providing for the manager of a city located within the borough to serve also as borough manager. A city adopting a manager plan, may by agreement with a borough, enter into a contract providing for the manager of a borough within which the city is located to serve also as city manager. Appointment and service of the manager shall be as otherwise provided for managers in this chapter. Nothing in this subsection affects the authority of the assembly or council to provide for other dual officeholding if the dual offices held are compatible, or otherwise to appoint officers and employees in accordance with law.

EXPLANATION: This section is derived intact from AS 29.24.200(e).

OK

✓ Sec. 29.24.210. POWERS AND DUTIES OF A BOROUGH ADMINISTRATOR.
Repeal.

✓ Sec. 29.24.390. POWERS AND DUTIES OF A CITY MANAGER.
Repeal.

✓ Sec 29.24.630. POWERS AND DUTIES OF A MANAGER. As chief
administrative officer the manager shall

(1) appoint municipal employees and administrative
officers, except as provided otherwise in this title and AS
14.14.065; he may hire necessary administrative assistants and
may authorize an administrative officer to appoint, suspend, or
remove subordinates;

(2) supervise the enforcement of municipal law
and carry out the directives of the governing body;

(3) prepare and submit an annual budget and
capital improvement program for consideration by the governing
body and execute the budget and capital improvement program
adopted;

(4) make monthly financial reports and other
reports on municipal finances and operations required by the
governing body;

(5) exercise care and custody over all real and
personal property of the municipality except as provided otherwise
in AS 29.36.040; and

(6) perform other duties required by law or by
action of the governing body.

See Tam's notes

EXPLANATION: This new section is derived from AS 29.24.210
and 29.24.390 dealing with the duties of the borough administrator
and with the duties of the city manager. Provisions relating
to appointment and discipline of municipal employees have
been consolidated into paragraph (1). Paragraph (5) is
derived from AS 29.23.140 allowing the manager to exercise
care and custody over municipal property. A similar provision
does not appear now with reference to the city manager and
it is felt that this duty ought to apply. The language of
AS 29.23.140(c)(10) relating to construction, maintenance,
and operation of roads and public works is felt to be
adequately covered by paragraph (3) directing the manager to
execute the budget and capital improvement program.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.430. OTHER BOARDS AND COMMISSIONS. (a) The assembly or council of a municipality may, by ordinance, establish advisory, administrative, technical, or quasi-judicial boards and commissions.

(b) Members of boards and commissions, except for members of the board of adjustment and assembly members serving on the board of equalization, are appointed by the mayor and confirmed by the assembly or council.

EXPLANATION: This is a new section authorizing the assembly or council to establish boards and commissions.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.450. APPOINTMENT. The assembly or council shall appoint a manager by a majority vote of its membership. He is chosen solely on the basis of his executive and administrative qualifications and receives the compensation set by the assembly or council. An elected municipal official may not be appointed manager of the municipality sooner than one year after leaving office, except that, by a vote of three-fourths of its authorized membership, the assembly or council may at any time appoint one of its members or other elected municipal official as manager.

EXPLANATION: The word "officials" in the last line is changed to "official" so that it is clear that a committee of officials may not serve as manager.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.480. APPOINTMENT OF OFFICERS. Unless otherwise provided by ordinance, the municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrative officer. Unless otherwise provided by ordinance, officers described in this section serve at the pleasure of their appointing authority and, if appointed by the chief administrative officer, must be confirmed by the governing body.

EXPLANATION: This section has been technically redrafted. The only substantive change is that the confirmation of officers appointed by the administrator is not required if an ordinance is adopted directing otherwise. This section determines a method of appointment if none is provided by ordinance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.510. MUNICIPAL TREASURER. (a) Except as provided in AS 14.14.060, the treasurer is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum which the assembly or council directs.

OK

EXPLANATION: Reference to 14.14.060 is added since that section demands that the custodian of a centralized treasury containing school money be the borough administrator.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.570. ELECTION. Upon receipt of the petition or upon its own motion, the assembly or council shall provide by ordinance or resolution for a vote on the question at the next regular or special election.

gk

EXPLANATION: Last line of existing section deleted due to possible confusion over notice requirements for elections contained in other sections which conflict.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.620. REPEAL. A municipality may repeal the manager plan in the same manner used for its adoption. Within 60 days after repeal, the assembly or council shall enact provisions for the reorganization of the municipal executive and administrative functions.

OK

EXPLANATION: To allow for notice, 60 days is added. Otherwise this section may not comply with notice requirements for ordinances.

OK

Sec. 29.24.670. SALARIES OF ELECTED OFFICERS. The assembly or council shall by ordinance provide a method of determining the salaries of elected officers. The salary of the mayor may not be reduced during his term of office unless during his term a manager plan is adopted. An elected officer may not receive any other compensation for service to the municipality unless otherwise provided by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section.

EXPLANATION: This change allows a local government the flexibility of establishing a salary commission or other method of determining salaries. Allows the mayor's salary to be reduced to reflect the change in his duties if a manager form of government is adopted. Grants flexibility to a municipality to allow an officer to receive other compensation for service to the municipality. This is important in small communities where the mayor, for example, may be the only electrician in town.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

gk

Sec. 29.33.030. EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250-09.55.460.

EXPLANATION: The limitation imposed on a second class city is eliminated broadening its power to exercise eminent domain.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.33.190. CENTRALIZED PURCHASING. Repeal.

EXPLANATION: Not needed. A municipality has this power without this provision.

OK

Sec. 29.33.210. BUDGET AND CAPITAL PROGRAM. (a) No change.

(b) Repeal.

(c) No change.

(d) Repeal.

EXPLANATION: (a) and (d) are repealed as misleading. Bonds may only be used to finance capital projects.

See text

*See section 27.010
regarding ordinances*

OK
see Jan

Sec. 29.33.220. EXPENDITURE OF BOROUGH REVENUES. Borough revenues received through taxes levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. This section does not apply to a unified municipality.

EXPLANATION: Technical drafting clean-up. The last sentence added to make it clear that areawide/nonareawide distinctions do not apply to unified municipalities.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.020. ^{NO CHANGE.} PLANNING COMMISSION. (b) In addition to responsibilities prescribed by ordinance, the planning commission shall

(1) prepare and recommend to the assembly a comprehensive plan in accordance with AS 29.42.030 for the systematic and organized development of the borough;

(2) prepare, recommend, and administer measures necessary to implement the comprehensive plan, including measures provided under AS 29.42.040.

EXPLANATION: This section is a shortened version of the existing AS 29.42.020. A major change is the elimination of detailed and unnecessary specifications of the commission's duties in favor of a general statement requiring the commission to prepare and recommend measures necessary to implement the comprehensive plan. The public meetings and public records requirement is eliminated since these requirements would attach in any case. The requirement for a public hearing is eliminated because it is felt that the public is adequately protected; A plan must be adopted by ordinance and is therefore subject to notice and hearing provisions.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.030 COMPREHENSIVE PLAN. (a) No change. DJS

(b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan. The assembly shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the plan and update the plan as necessary. OK

EXPLANATION: Subsection (b) is redrafted to eliminate the mandatory two year review requirement and substitute a more flexible review requirement.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.060. ADJUSTMENT PROCEDURE. Repeal

THAN

EXPLANATION: A simplified procedure is now provided in the prior section.

Sec. 29.42.070. JUDICIAL REVIEW. (a) The assembly shall provide by ordinance for an appeal by a municipal officer or person aggrieved from a decision of the board of adjustment, hearing officer or other body to the superior court.

(b) An appeal to the superior court under this section is an administrative appeal and the appeal is heard solely on the record established by the board of adjustment, hearing officer or other body. A proceeding under this section has preference over all other civil actions and proceedings.

EXPLANATION: This proposed language makes several important changes in procedures governing administrative appeals to the superior court. The "automatic stay" requirement of is eliminated, allowing parties to follow more customary appellate rules governing injunctions pending appeal; the language makes land use appeals administrative appeals under the Appellate Rules, and eliminates procedural requirements already governed by the Rules of Court.

OK
DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.085. APPLICATION TO STATE AND POLITICAL SUB-DIVISIONS. All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to this chapter and AS 40.15.200.✓ The platting authority in the area outside cities in the unorganized borough and in third class boroughs is subject to this chapter and to AS 40.15.075.✓

EXPLANATION: This new section contains cross references to other statutes applicable to subdivisions and platting.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.090. PROCEDURE. (a) The platting board shall approve or disapprove the plat within 60 days of filing or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat. OK

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010 - 40.15.020.

EXPLANATION: The proposed change eliminates submission of preliminary plats for state disposals under AS 38.05 or 38.08, because the proposed changes in Sec. 29.42.010 requires full state compliance with local ~~capital improvement~~ requirements. subdivision

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.100. WAIVER IN CERTAIN CASES. Repeal.

OK

EXPLANATION: A short plat provision is added as AS 29.42.115, making the waiver provision no longer necessary.

Sec. 29.42.115. SHORT PLAT PROCEDURE. (a) Notwithstanding other provisions of this chapter the assembly may by ordinance establish a short or abbreviated plat filing procedure for a plat which will only relocate or vacate lot lines, or subdivide a single tract or lot into not more than four tracts or lots and which will not:

OK

(1) deny legal and physical public access to all lots or tracts created or adjacent to the subdivision, or require construction or improvements necessary for access;

(2) alter a dedicated street or right-of-way, or require any dedication other than a dedication needed for an existing right-of-way;

(3) allow a change in the permitted use to which the lot or tract may be devoted;

(4) require the granting of a vacation or a variance from a subdivision regulation.

(b) Regulations may provide for an administrative official to review, consider, and approve short plats with notice, hearing, and other procedure requirements established by the assembly.

EXPLANATION: New section allowing short plat filing under expedited procedures adopted by the assembly so that small subdivisions can be accomplished without unduly complex procedural requirements.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.120. PENALTIES. Repeal.

ok

EXPLANATION: Provisions now contained in this section have been moved to a more inclusive section dealing with remedies - AS 29.42.160.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.130. ALTERATION OR REPLAT PETITION. No recorded plat may be altered or replatted except by the platting board upon petition of the state, the municipality, a public utility, or the owners of a majority of the land affected by the alteration or replat. No platted street may be vacated, except upon petition of the state, municipality, or a public utility, or owners of the majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat. OK

EXPLANATION: Similar to current language except for a change allowing the state, the municipality or a public utility to initiate a replat petition, as well as property owners. Petitions to vacate streets may be initiated by the state and a public utility, as well as the municipality or property owners.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.150. DELEGATIONS. Repeal.

OK

EXPLANATION: Since the assembly is able to establish powers and duties of the planning commission and planning board, this section is redundant.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.420. SCHOOL BOARDS. Each borough and city school district has a school board. ~~Members~~ ^{carries} are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. Members are elected for three-year terms and until their successors take office. All board members are elected at large, ~~unless a different method of election~~ ^{has been approved by the voters in a reg. elect.}

The election of board members shall be the same as for assembly members unless changed by ord rat. by voters.

EXPLANATION: The provision that school zones may be established as provided by Sec. 100 is deleted. AS 29.23.100 was repealed in 1972.

#1 The # of members shall be determined ^{provided for} by ord, sub to vote app.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

ok

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES.

Repeal.

Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

Sec. 29.39.080. PENALTY FOR VIOLATION OF CURFEW. Repeal.

EXPLANATION: It is felt that these provisions are unnecessary and would be properly placed in the criminal code. (NOTE: These were in the criminal code as AS 11.60.250, 11.60.260, and 11.60.270 and moved to Title 29 effective January 1, 1980.)

of

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that a private leasehold, contract, or other interest in the property shall be taxable to the extent of the interest;

(2) household furniture of the head of a family or household;

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

1. (b) (3) lots or portions of lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

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

(f) No exemption may be granted under (e) of this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 or a date provided by ordinance which is not later than March 31, of the assessment year for which the exemption is sought, ...
...If a claimant whose failure to file by January 15, or a date provided by ordinance which is not later than March 31...

EXPLANATION: Based on Alaska Association of Assessing Officers (AAAO) recommendations:

1. (a)(2): deletes \$500 limit on exemption of household furniture.

2. (b)(3): narrows the language so that only portions of lots necessary to convenient use are exempt.

1. Dinmick moves to delete: ALL of (b)(3)
2ND

3. (c): clarifies that "exclusively for classroom space" limitations on rental income under (c) only applies to rental use by an "educational group" and does not preclude the exemption when the income is derived from use by nonprofit religious, charitable, or hospital groups.

4. (f): clarifies that filing of a claim for exemption is a requirement for only the senior citizen exemption under (e), and not for the other exemptions addressed in the section. Adds flexibility so that a local government may establish a date later than January 15 for filing for a senior citizen exemption.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.160. REMEDIES. (a) It shall be unlawful for the owner of land located within a subdivision to transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with this chapter or with an ordinance adopted under this chapter. It shall be unlawful for a person to record a plat or other document depicting subdivided land in any public recorder's office unless the plat or document has been approved by the municipal authority. A person convicted of violating a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority in the exercise of its powers under this chapter is guilty of a misdemeanor and may be punished by a fine not to exceed \$1,000.

(b) The municipality or an aggrieved person may institute civil action against a person who violates a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority. [In addition to injunctive and compensatory relief, [a civil penalty not to exceed \$1,000 may be imposed for each violation.] An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. 2

(4) 1 [(c) Every day upon which an unlawful act or condition continues shall constitute a separate violation.] ^{Free} ~~After~~

Free Motion: delete fail as
2nd

5. Entry of judgment
finding a violation
~~exists~~ has occurred

EXPLANATION: This new section is derived in part from AS 29.42.120 and contains new provisions which strengthen remedies available to municipalities seeking to enforce subdivision regulations. It prohibits persons from offering to sell unsubdivided land in violation of local subdivision regulations, authorizes injunctive relief to restrain violations of subdivision regulations, allows imposition of civil penalties, and makes daily occurrences of unlawful acts separate violations.

2. Brews Amend: add
CARRIES
upon app inj relief, finding
Cook/2nd
2 Add: After the violator has ~~be~~ 92 notified.
4). delete
(C).

NOT
Accept

Sec. 29.33.010. GENERAL POWERS. Section unchanged to:

(7) to levy taxes and special assessments, and impose liens for their enforcement;

(9) to acquire, manage, control, use and dispose of real and personal property, irrespective of whether or not the property is situated within or outside the municipal boundaries; this power includes the power of a ~~second class~~^{*} borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area created under AS 29.36.270(f).

^{amend}
~~Beens delete:~~

Adds:

(13) issue franchises and permits ^{*}~~for the use of~~^{*}
~~municipal property;~~

All other paragraphs the same.

^{delete}
* ~~PAR~~ MOTION: carries

EXPLANATION: (7) allows for imposition of liens; (9) deletes material referring to purposes for which property may be acquired, managed, or disposed of; (13) is new.

^{add:}
Walker amend: ^{*}₂ including exclusive franchises & permits.

^{delete:}
Beens amend ^{*}₃ delete: for the use of mun. prop.

Par motion: do not accept this change. } carries
2ND. DIMMICK
amend: strike (13).
sup pg 93 for alternate sugg.
Lieberman: to be deleted & the new

Sec. 29.33.020. EXTRATERRITORIAL JURISDICTION. ^{Tamendment.} (a) A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries, ~~small boat harbors and marinas~~, and airports outside its boundaries, subject to AS 29.36.010, and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) No change.

EXPLANATION: Adds "small boat harbors and marinas" and provides that jurisdiction in which a facility is located may regulate it.

carries
Dimmick Motion *, ~~ADD: substitute:~~
~~gas, power sec language:~~
harbors, wharves & other marine facilities,
~~TECHNICAL~~ ^{services,}
ADD TRANSPORTATION & utilities services

Par add: carries
solid & septic waste disposal

Dimmick motion: carries
1 To the extent that a munic. ~~may~~
see Tam] may ex pwr rec to
provide ~~it~~ or fac.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.070. FACILITIES AND PROGRAMS. (a) Subject to other provisions of law, a municipality may exercise the powers necessary to provide the following:

The same to:

(22) Repeal.

Add:

(24) carry out any public purpose.

The rest of this section is the same.

provide any other facility or service necessary
Burns motion: carries to —

EXPLANATION: (22) is more properly a regulatory power. Covered under AS 29.33.090(a)(11); (24) is added so that a municipality is not "limited" by the laundry list.

*see services/systems
consistent wording*

Sec. 29.33.200. MUNICIPAL PROPERTIES. (a) Repeal.

(b) Repeal.

(c) Repeal.

(d) The assembly or council shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality. ~~[In a competitive process for the acquisition and disposal of land and interests in land by the municipality is not provided by ordinance, each land transaction by the municipality shall be approved by ordinance.]~~

(e) Repeal.

(f) Repeal.

3. ~~Each~~ disposal of land
or interest in land
shall be by ordinance.

EXPLANATION: Since other laws, both federal and state, which provide land to municipalities contain conflicting requirements for use and disposal it is felt that this section created undue complexities as it now reads. It is eliminated in favor of a simple requirement that a procedure be established by ordinance.

Beens: subs. ~~for~~ sentence:

Disp of land & int by other than
comp. process shall be by ordinance.

[2] BRANSON moves to delete.
2nd:

Hold

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.040. LAND USE REGULATION. (a) In accordance with a comprehensive plan adopted under AS 29.42.030 and in order to implement the plan, the assembly by ordinance as a legislative act, shall adopt or amend provisions governing the use and occupancy of land which may include but are not limited to OK

(1) zoning regulations restricting the use of land and improvements by geographic districts;

(2) construction, fire and safety codes governing placement, erection and occupancy of structures;

(3) land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;

(4) measures to further the goals and objectives of the comprehensive plan.

(b) A variance from a land use regulation adopted under this section shall not be granted if

(1) special conditions which require the variance are caused by the person seeking the variance;

(2) the variance will permit a land use in a district in which that use is prohibited; or

(3) the variance is sought solely to relieve pecuniary hardship or inconvenience.

EXPLANATION: Present law requires implementation of the comprehensive plan through traditional zoning applicable to geographically defined districts, and allows so-called "contract zoning." Although the present Sec. 29.42.040 (b) contains a rather traditional enumeration of the purposes of zoning, the "including but not limited to" preface to that subsection renders the detailed laundry list legally meaningless. The suggested language of AS 29.42.040 preserves the requirement that all land use regulations comply with a comprehensive plan and recites the more important categories of land use regulations available to the borough. Passage of AS 29.42.040 would enable second class boroughs to enact building and fire codes. Material on variances has been moved to the section from AS 29.42.050.

Motion by Paer: NOT TO ACCEPT.

No second.

J. Beens Elim: (2) carries
2ND Tech GRP Review
80

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.110. FRANCHISES AND PERMITS. Repeal.

*NOT
ACCEPTED
See
33.110*

EXPLANATION: The right to issue franchises and permits has been added to the general powers section, AS 29.33.010 (13). It is not felt that it is necessary to circumscribe this power.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Diminick motion: carries.

RETAIN:

Sec. 29.33.120. PUBLIC UTILITIES RATES. Repeal.

42.05 cr

Sec. 29.33.130. HEARING FOR REGULATION OF UTILITIES. Repeal.

Sec. 29.33.140. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY.

Repeal.

Sec. 29.33.150. FURTHER PROCEEDINGS. Repeal.

Sec. 29.33.160. APPLICATION. Repeal.

EXPLANATION: The regulation of municipally owned utilities is allowed under the new draft of AS 29.33.090 as (109). It is felt that it is not necessary to include elaborate details concerning that regulation.

STATE RECO. ADD

DV

Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a)
Home rule and first class cities ^{*}~~outside first and second class~~
boroughs shall, and second class cities outside ^{*}~~first and second~~
~~class~~ boroughs may in ^{*}~~whole or part~~, provide for planning, platting
and land use regulation within their boundaries, as provided by
AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third
class boroughs shall, and second class cities within third class
boroughs may ^{*}~~in whole or part~~ provide for planning, platting and
land use regulation, as provided by AS 29.42.010-29.42.150 for
boroughs.

EXPLANATION; Clarifies that a city may only plan for the
area within its boundary. Adds the provision that second
class cities may plan "in whole or part" as provided for
boroughs, so that it is clear that they are not forced into
an all or nothing situation.

^{2ND}
*1 Diminick Motion: carries
Beens deletion: see above

*2 Policy issue: carries
Diminick Motion: delete "whole or part"
Cook 2ND

Policy issue for later!

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.080. PLATTING JURISDICTION AND POWER. (a) By ordinance the assembly shall adopt subdivision requirements which may include but are not limited to the control of

(1) form, size and other aspects of subdivision, dedications, and vacations of land;

(2) dimensions and design of lots or tracts;

(3) street width, arrangement, and rights-of-way, including requirements for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage and other public utility facilities and improvements;

(4) dedication of streets, rights-of-way, public utility easements and areas deemed by the platting authority **BOARD** necessary for other public uses.

(b) The assembly by ordinance shall establish a platting board to administer subdivision regulations adopted by the borough and perform other duties. The platting board may consist of members of the planning commission or of other municipal bodies, boards and commissions.

EXPLANATION: This proposed change makes the following modifications to existing law: it requires adoption of subdivision regulations by ordinance; allows the platting authority to require dedications; allows the assembly to determine the composition of the platting board; and eliminates the provisions which allow the state of Alaska to ignore capital improvement requirements of local subdivision regulations.

*Par motion: NOT ACCEPT^{ch9} WITH
REGARD TO STATE LAND
DISPOSAL CONFORMANCE.*

Walker motion: make consistent w Title 40

*Title 38 requires state comply w unless
excepted (change deletes exception).*

OK

Sec. 29.24.680. PROHIBITIONS. (a) Repeal.

(b) Repeal.

(c) No change. - see text. *W Lee Sharp.*

(d) No change. *(delete 1st line)*

EXPLANATION: (a) and (b) are deleted because other state and federal laws mandate nondiscrimination and those provisions may not be identical to (a), which could create confusion. For example, (a) does not cover age, handicaps, or marital status. (a) might also create constitutional problems if interpreted to forbid affirmative action programs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.010. CONFLICT OF INTEREST. Each home rule and general law municipality shall adopt a conflicts-of-interest ordinance which, ^{as the GL mun} other provisions of this chapter notwithstanding, includes provision that an officer or employee shall ^{disqualify} himself from participating in any official action in which he has a substantial financial interest.

EXPLANATION: The second sentence is deleted as redundant.

A, provides that a member of legislative body shall declare before the body and ask to be excused by a majority or the presiding officer, the ruling may be appealed
shall be final
unless
overturned by majority

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

✓Sec. 29.24.690. PERSONNEL SYSTEM. Repeal

✓Sec. 29.24.530. PERSONNEL SYSTEM. (a) Except as provided by (b) of this section, all appointments and promotions of municipal employees are made on the basis of merit. The assembly or council may provide for a personnel system and classified service.

(b) By ordinance the governing body may designate* positions which are wholly or partially exempt from the classified service filled by persons who serve at the pleasure of their appointing authority and whose terms of employment are determined by their appointing authority.

EXPLANATION: Subsection (a) is essentially the same as the existing provisions of AS 29.24.690 except that officers are no longer required to be appointed on the basis of merit. Subsection (b) is new; this subsection allows the governing body to designate certain positions as executive positions and exempt persons occupying those positions from the classified service. This addition would allow municipalities to enact so called "executive plans" governing the wages, hours, and other terms and conditions of employment of high level executive employees.

* Administrative
Managerial or
Confidential
Positions
Clerical

OK

Sec. 29.33.090. REGULATORY POWERS. (a) No change.

- (1) No change
- (2) No change
- (3) licensing, impounding and disposition of animals;
- (4) alcoholic beverages as provided by AS 04.15.070;
- (5) recreational devices as provided by AS 05.20.100;
- (6) condemnation and abatement of public nuisances and hazards;
- (7) water pollution control;
- (8) air pollution control as provided in AS

46.03.140-46.03.240;

9 (10) municipally owned utilities to the extent not prohibited by 42.05; *Walker memo: careers*
10 (N) *to the extent not otherwise prohibited,* any activity affecting the general health, safety, well-being and welfare of its inhabitants.

7 (b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090-29.36.130 for areawide exercise or in the manner required under AS 29.36.160-29.36.200 for exercise in the borough area outside cities or are conferred by Sec. 020 of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(3), (6), (7), (8) and ~~(10)~~ of this section, exercise of the powers areawide or, as to (a)(3), (6) and ~~(10)~~, in the borough area outside cities is at the option of the borough and is not subject to those restrictions on the acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

EXPLANATION: Laundry list shortened to include only those items containing cross-references and those specifically treated under (b). (10) is new. (8) dealing with air pollution control is added to (b) so that the power must be exercised on an areawide basis.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.010. PLANNING, PLATTING, AND LAND USE REGULATION.

(a) First and second class boroughs shall provide for planning, platting, and land use regulation on an areawide basis. D/K

(b) The assembly by ordinance may delegate any of its powers and responsibilities under this chapter ~~to~~ the council of a city within the borough, or to a city board or commission, provided the city first consents by ordinance to the delegation. The assembly may, without first obtaining the consent of the city, revoke any power or responsibility delegated under this section.

1. Walker Recc. / Carries
MOTION

delete

EXPLANATION: This section is substantially similar to the existing AS 29.42.010. A reference in subsection (a) to "zoning" has been changed to the more flexible term "land use regulation". Subsection (b) has been redrafted to clarify the issue of whether a city's consent is required before delegated powers are revoked by the assembly.

MINORITY RECOMMENDATION:

(c) Notwithstanding the provisions of (b) of this section the functions of planning, platting, and land use regulation within a first class or home rule city located more than 25 miles from the boundary of the borough seat may be assumed and exercised exclusively by that city upon ratification by the qualified voters residing in the city of an ordinance of the city council proposing exercise of those powers by the city.

EXPLANATION: Would allow a first class or home rule city located a distance from the borough seat to take over planning without the consent of the borough. W

OK

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.050. APPEALS FROM ADMINISTRATIVE DECISIONS. (a)

By ordinance the assembly shall provide for an appeal from an administrative decision of a ^{Municipal} ~~borough~~ employee, board, or commission made in the enforcement, administration, or application of a land use regulation adopted under this chapter. The assembly may provide for an appeal to [a court] board of adjustment, hearing officer, or other body. The assembly shall provide for an appeal from a decision on a request for a variance from the terms of a land use regulation when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.

(b) By ordinance the assembly may provide for appointment of hearing officers, or for the composition, appointment and terms of office of a board of adjustment or other body established to hear appeals from administrative actions specified in (a) of this section. The assembly may define proper parties, prescribe evidentiary rules, standards of review, and remedies available to the hearing officers, board of adjustment or other body.

EXPLANATION: This section consolidates provisions of existing Sec. 29.42.050. and Sec. 29.42.060. The specific enumeration of the kinds of decisions from which appeals may be taken is eliminated; in its place is a more general requirement allowing appeals from administrative decisions of borough employees or boards made in enforcing or administering land use regulations. New language allows appointment of hearing officers, eliminates redundant public record and meeting requirements, and allows the assembly to define proper parties, evidentiary rules, and standards of review rather than following more restrictive rules of the present AS 29.42.060.

~~DELETE: A COURT~~

Sec. 29.45.010. GENERAL PROPERTY TAX. A general law or home rule borough other than a unified municipality, may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A unified municipality may levy areawide and nonareawide property taxes. A tax if levied on real property, personal property, or both must be assessed, levied and collected as provided in this chapter.

EXPLANATION: This section has been clarified as the the fact that a unified municipality may levy both areawide and nonareawide taxes. Limiting the use of areawide taxes to areawide functions and nonareawide taxes to nonareawide functions makes little sense. It is made clear that taxes may be levied on personal and real property or either.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.45.020. TAXPAYER NOTICE. (a) If a municipality levies and collects real and personal property taxes, or either, the governing body shall provide the following notice:...

EXPLANATION: The language "real and personal property taxes, or either", was added to conform to 29.45.010.

OK

Sec. 29.45.050. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) No change.

(b) A municipality may by ordinance

(1) classify boats and vessels for the purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage.

(2) classify and exempt from taxation

(A) ... [THE HOUSEHOLD FURNITURE OVER \$500 IN VALUE AND THE EFFECTS OF THE HEAD OF A FAMILY OR A HOUSEHOLDER]... (the rest of the subparagraph is left intact.)

EXPLANATION: Eliminates in (b)(1) the \$5 and \$15 limitations, since with these limits, collecting a tax on boats does not pay administrative costs. Modifies and expands existing (a)(2)(A) relating to optional exemption of household furniture and effects, based on recommendations of AAAO, since assessors currently do not include household furnishings and personal effects of family members.

OK

Sec. 29.45.100. TAX LIMITATIONS. (a) No change.

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon value which, when combined with the value of the property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States bureau of the census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of the property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

EXPLANATION: Change requested by AAAO raising \$1000 to \$1500. No recommendation by the Technical Group.

OK

Sec. 29.45.140. INDEPENDENT INVESTIGATION. (a) No change.

(b) For investigation, the assessor or his agent may enter any premise during reasonable hours and may examine property on the premises. He may examine all property records involved. A person shall, upon request, furnish to the assessor or his agent every facility and assistance for the purposes of the investigation. The assessor may seek a court order to compel entry and production of records.

EXPLANATION: It was felt that the assessor ought to be able to seek production of records, as well as to compel entry, whether refused entry or not.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.45.150. PENALTY. A person who knowingly fails to file a statement required by ordinance or who knowingly makes a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation is guilty of a class B misdemeanor.

EXPLANATION: This section was changed to classify the misdemeanor to conform with the criminal code. A class B misdemeanor carries a possible fine of \$1,000 and term of imprisonment of 90 days, somewhat more severe than existing law.

100

Sec. 29.45.220. HEARING. (a) No change.

(b) No change.

(c) The only grounds for adjustment is proof of unequal, excessive, improper, or under valuation based on facts which are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(d) No change.

(e) Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(f) The appellant or the assessor may appeal the board's determination to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

EXPLANATION: Change in (c) makes it clear that an assessment can be raised as the result of an appeal. Change in (e) to allow for supplementary assessments after June 1. Change in (f) so that appeals to the superior court will be heard on the record rather than de novo, as is now the case.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

rejected

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

*Proposed
includes
Perrin and others
Just after your
last one & probably
145*

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

SCOMM

#23:50

AGENDA

TITLE 29 REVISION COMMISSION Policy Group Meeting

January 17th:

1. Introduction of guests and members of the public attending.
2. Presentation by guests and members of the public of areas of concern or proposed items for consideration.
 - a. Presentation by Larry Kimball, Director, Division of Community Planning, Department of Community and Regional Affairs: "Planning for Small Communities."
3. Old Business:
 - a. Approval of Minutes.
 - b. Report by subcommittee chairman on AS 29.09.180. (Organizational Grants).
 - c. Report by subcommittee chairman on AS 29.30.040 (Voter Qualifications).
 - d. Presentation of proposed drafts by the Technical Committee.
 - e. Other Old Business.
4. New Business:
 - a. Presentation of proposed items for consideration by members of the Policy Advisory Group.
 - b. Presentation of proposed items for consideration by Ex-Officio Members.
 - c. Presentation of proposed items for consideration by the Technical Revision Committee.
 - d. Other new business.

January 18th:

1. Introduction of guests and members of the public attending.
2. Presentations by guests and members of the public of areas of concern or proposed items for consideration.
3. Old Business.
4. New Business.

GET
HOBBAWORTH
TAPES

(1)

Predium ✓
For Dimmick

Called to order
Roll call

COOK - no oversight

Larry Kimball:
"Planning for Small Comm."

346

Land use problems -

180 plans. when finished

COASTAL ZONE MGMT - some division -
trying to keep ahead.

Continued

†
Line 27.

(2)

Organizational Grants

McCARTER presentation of CERA Bill #3

Cities

Boroughs

money on 3yr sliding

scale

29.45.010

Real & prop

tax -

KOHLER to

Same rate

Finish Tech Committee drafts

Take up Tech's Powers section

1.

Committee: 29.33.110

TB.050

KOHLER

PARR

BEENS

SHARP

definitions of franchises,
leases, permits

Dimmick .610 - language

COOK - home rule relationship

(3)

Service Areas - Dimmick concern
see lang.

Chair Passed out Issues paper
to look ~~at~~ for discussion Sun.

Paper - minority reports
Larson asked for clarification

Chair submit to Rules
w minority reports affixed.
Issue for Sunday for discussion
if objection

Individual responsibility
to make available

Minutes approved.

2nd
day

~~29.33.070~~

Chair- Palmer to v into audit & coord w
Fm Tcoll. St. Marys city mgr

(Chair will investigate wording & policy
issue of including unified municipalities
in mandatory powers sections.
Land use - specific problem.

Chair Issue of power to accept grant money
to oversee Do municipalities have?

33.

Chair wording 160 (c) more ARTful.
" drafting 29.33.130 (c) " "

29.33.080 Has been affected by legislation changing
Title 42. Needs to be changed to conform.

(4)

Recall - no new language.

CHAP 45. Differing rates for real or pers. prop?

.100

Issue of two structures of pers. & real prop. reassessed. Optional taxation. ^{real or} pers.

.010

Optional exemption of pers prop as opposed to differing structures. Who assesses? if exempted?

Definitions of real & pers. prop.

7 CERA says no.

Motion carries

Staff to draft provision clarifying that real & pers prop must be taxed at same rate.

3rd cl. ^{boeo.} to HR. no lang. drafted since eliminated 3rd cl. boeos.

Motion carries

STAFF TO DRAFT LANGUAGE to allow 3rd cl. boeo. to go directly to HR.

Language in Title defining 3rd cl. boeo so they can define themselves while exercising grandfather rights?

DIRECTION:

Diminick
Motion
2ND
FAILS

Reconsider action to elim 3rd cl. boeo.

CERA will make perm. file of current law for 3rd cl. boeos.

(5)

Beanson wants to see finished bill.
Comments to CERA re:

✓ when filed → Minority statements to Tam to be presented with bill.

Tam ^{volunteered} ~~will~~ track through committee

Dimmick - GARBAGE & SOLID WASTE. WANTS to submit rec. to staff. - NO, to CERA.

MOTION: LARSON: Majority report vs. minority report.
2nd ~~Thinks minority report to be submitted~~
carries on individual basis. Report w min
rept. w app. to staff.

COOK SUGG: per

Pg 74. 30.060(c). Add: "E auth results to be
carries certified."

~~30.100 Add: "the gov body may put questions
on sep ballot."~~

~~29.24.700 (3) Add: "if taxes are assessed on word"~~

~~Issues:~~ 45.260

✓ ^{LA carries} Walker. sec(b) inconsistent w a & covered
move to delete, 2nd. w approp. ref. to
pers prop ass. forms. direct staff to retain

^{earies}
Larson motion: staff & chair to decide
and clarify inconsistencies in final draft.

16

Issues: TO BE FURTHER CONSIDERED
IN LEGISLATIVE PROCESS:

~~C&RA Handbook~~

CHAIR WILL BRING LIST

ADOPTED REVISED TITLE 29.

ADJOURNED - 3:35

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)

Larson motion: Article 1. GENERAL POWERS *Approved*
2ND Sec. 29.33.010 ✓ (Sec. 29.48.010.) GENERAL POWERS.

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

- (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, and interests in such 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;

(11) to expend funds for community purposes for the good of the municipality;

(12) to borrow money and issue evidences of indebtedness.

added (13) to regulate the operation and use of its public rights of way, public facilities and services.

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL JURISDICTION. (a) A municipality may, to the extent otherwise authorized or permitted by law, provide parks, roads (including ice roads), trails, playgrounds, solid and septic waste disposal, wharves, harbors and other marine facilities, emergency medical services, cemeteries, airports, transportation systems and utility services outside its boundaries, and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt ordinances to protect its water supply and watershed and may enforce them outside its boundaries. Before this power may be exercised within the boundaries of another municipality, the approval of that municipality must be given by ordinance. This section applies to general law and home rule municipalities.

2nd ed.
Sec. 29.33.030 (Sec. 29.73.020.) EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250-09.55.460.

Carried
Sec. 29.33.040. (Sec. 29.48.270.) EMERGENCY DISASTER POWERS. (a) A municipality which is wholly or partially within an area declared by the President or Governor to be a disaster area may participate in and provide for housing and urban renewal and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough is limited to the area outside cities in the borough.

(b) A borough may exercise the powers for a housing or urban renewal and redevelopment project transferred to it by a city located in the borough as provided by AS _____.

(c) Powers granted by this section must be initiated within a period of not more than five years from the date of declaration of a natural disaster by the President or Governor, but these powers may be extended for an additional period of not more than three years.

Sec. 29.33.050. FRANCHISES AND PERMITS. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges and may grant permits for use of streets and other public places.

Any person who owns property of = Board of Streets within a city?

(b) No exclusive franchise is valid until it has been ratified by a majority of the qualified voters voting on the question at a regular or special municipal election.

See sharp language OK

Sec. 29.33.060. (Sec. 29.48.060.) PUBLIC UTILITIES RATES. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a utility to the extent that the utility is not regulated under AS 42.05, provided that interest must be paid on any deposit required by the utility. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return in invested capital.

ditto

VOTE changed lang?

Sec. 29.33.070. MUNICIPAL PROPERTY.

The assembly or council shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land of the municipality.

unless otherwise provided by ord.

~~interest in land shall be by ordinance unless the assembly or council finds by resolution that the land or interest in land is without substantial value to the municipality.~~

Deleted

OK
NC
Sec. 29.33.080. (Sec. 29.48.190.) BUDGET AND CAPITAL PROGRAM. (a) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

(b) The assembly or council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

NC
OK
Sec. 29.33.090. (Sec. 29.48.210.) EXPENDITURE OF BOROUGH REVENUES. Borough revenues received through taxes collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes and levied and ^{SB NOT there} collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. This section does not apply to unified municipalities, ^{WALKER MOTION} ~~OR HOME RULE~~ } failed

NC
Sec. 29.33.100. (Sec. 29.48.220.) POST AUDIT. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of

the audit shall be available to the public upon request. This section applies to home rule and general law municipalities.

Article 2. MANDATORY AREAWIDE POWERS

Sec. 29.33.110. (Sec. 29.33.010.) SCOPE OF AREAWIDE POWERS.

(a) First and second class boroughs shall exercise the powers as specified and in the manner specified in this article on an areawide basis, both inside and outside cities within their boundaries.

(b) No city may exercise an areawide power once that power is being exercised by a borough.

Sec. 29.33.120. (Sec. 29.33.050.) EDUCATION. Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation within an organized borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a (regional educational attendance area) is disapproved by the Department of Education, operation, management and control of schools on military reservation transfers to the borough school district in which the military reservation is located.

IF Reservation is in a school District, there would be no REAA involved

Carries
Roll Motion

Sec. 29.33.130. (Sec. 29.33.030.) ASSESSMENT AND COLLECTION OF TAXES. (ASSESSMENT AND COLLECTION) Boroughs shall assess and collect property, sales and use taxes levied within their boundaries, subject to ch. 45 (ch. 53) of this title. Taxes levied by a city ^{shall be} and collected by a borough ^{AND} are returned in full to the levying city, - ~~the power of collection is lost?~~ *per Borough letter*

MOTION: *APPLY TO HEGL Municipalities.*

Sec. 29.33.140. LAND USE REGULATION.

First and second class boroughs shall provide for land use regulation in accordance with AS 29.42. ^{planning platting} *qu*

Article 3. ADDITIONAL CITY AND BOROUGH POWERS

Sec. 29.33.150. FIRST CLASS BOROUGH POWERS. (a) In addition to the powers granted by Sec. .010 through .140, a first class borough in the areas outside cities, may exercise any power not otherwise prohibited by law.

Kohler Motion Carries

more separation in format of areawide + non-areawide powers

(b) A first class borough may, by ordinance, exercise ^{ADDITIONAL} the following powers on an areawide basis:

1. Providing transportation systems
2. Water pollution control
3. Air pollution control as provided in AS 46.03.140-.240
4. Licensing of day care facilities
5. Regulation ^{E DISPOSITION} of animals

Walker motion And carries

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise any other power not otherwise prohibited by law provided that such power has been transferred by a city and approved by the borough