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HLG :

SB 113

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Wilda Hudson
1/24/70

CONFUSION SURROUNDING ASSUMPTION AND EXERCISING OF POWERS AREAWIDE BY SECOND CLASS BOROUGH UNDER TITLE 7 AS NOW WRITTEN

There is no question but what the people in all good intent voted the Greater Anchorage Area Borough the authority to exercise the sewer power areawide. If tested, it could quite likely prevail that the Borough could assume the exercising of the sewer power areawide without the consent of the City of Anchorage to transfer same by agreement. However, it has been my position that the whole question of assumption, exercising, and transferring of a power areawide to a second class borough from a home rule city, as now provided by Title 7, is fraught with lack of specific direction, ambiguities, and inequities for home rule city voters and their investment in existing assets. Further, I have felt that it is important that the law be clarified before other powers are voted areawide in order that the community and governments will not have to again experience the problems and emotions that have surrounded the transfer of the sewer power.

This analysis is being done in order to show the flaws and weaknesses of the law as presently written and to show good cause why the proposed amendments are necessary. It is not being done to prove that the Greater Anchorage Area Borough does not, by vote of the people, have the authority to exercise the sewer power areawide. As concerns the sewer power, I have come to the conclusion that the Borough must assume the exercising of the power under Title 7 unclear as it is, unless an agreement is reached in the meantime with the City. After all, we are going into the fourth year with this matter unresolved by attempted transfer agreements by the two governments and the more familiar one becomes with the overall sewer program and problems it becomes increasingly apparent that the entire program must be under the direction of one government, and soon, if the taxpayers of the entire community are to be served effectively and efficiently.

— See page 3 —

PERTINENT SECTIONS OF TITLE 7:

Sec. 07.15.060. Transferred powers. First and second class boroughs shall exercise all powers transferred to them by cities under this chapter.

Sec. 07.15.310. Scope of areawide powers. First and second class boroughs shall exercise the powers specified in sections 310-350 of this chapter on an areawide basis, both within and outside cities of any class within its boundaries. No city of any class, whether home rule or not, within an organized borough, may exercise any areawide power provided in this section or specified in the petition approved by the voters for incorporation once that power is being exercised by an organized borough.

Sec. 07.15.350. Additional areawide powers. First class boroughs acquire additional areawide powers by transfer from a city. Second class boroughs acquire additional areawide powers in the same manner provided by sections 710-800 of this chapter for their acquisition of additional powers to be exercised in the area outside cities only, except that the vote on the question is areawide.

Sec. 07.15.710. Powers of first class borough. Before exercising any of these powers in the area outside cities, the borough shall first seek to have transferred from cities, or propose the joint exercise with cities, those powers which it intends to exercise in the area outside any city.

Sec. 07.15.720. Powers of a second class borough. In addition to other powers granted by this title, the second class borough may exercise only those powers in the area outside cities which are among powers of a city of the first class and either (1) specified in the petition and approved by the voters for incorporation or (2) added as provided by this title. These powers shall be exercised in the manner provided by general law for first class cities except as provided otherwise by this title. Before exercising any of these powers in the area outside cities, the borough shall first seek to have transferred from cities, or propose the joint exercise with cities, those powers which it intends to exercise in the area outside any city.

Sec. 07.15.730. through Sec. 07.15.800 sets forth the methods as to how a second class borough brings the question of added powers to a vote.

Sec. 07.15.800(6). Certification. If the majority vote is cast on the question are for addition of power..... The added power or powers go into effect on the day following the date of the certification of their approval by the voters.

Sec. 07.15.910. Transfer by city. A city may transfer to the first or second class borough in which it is located any of its powers or functions subject to the approval of the borough assembly. A city may not revoke the transfer of any power or function to the borough unless the revocation is approved by a majority of its council.

Sec. 07.10.130. Integration of existing special districts and service areas. Special service districts and service areas in the unorganized borough existing at the time of the incorporation of an organized borough and located within the boundaries of the organized borough shall be integrated into the organized borough within two years after the date of the borough's incorporation. An organized borough shall succeed to all of the rights, powers, and duties of any service area and of any school districts and public utility districts included within its boundaries, including, but not limited to, claims, franchises, and other contractual obligations, and liability for bonded and all other indebtedness, and shall succeed to all of the right, title, and interest in the real and personal property held by the service areas or districts. The borough assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the service area or special district, for continuing services in the area, or for the future indebtedness in the area. When a service area or special district had a previously incurred bonded indebtedness, no less than all property that was within the service area or special district at the time the bonds were issued shall remain subject to taxation to pay the principal of and interest on the bonds for as long as they remain outstanding.

Sec. 07.10.140. Transition. (a) the powers exercised by cities, service areas, and special districts which are succeeded to by an organized borough shall continue to be exercised by them until such time as the borough assumes the powers, which time may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, regulations, procedures, and orders in effect prior to the assumption of these powers by the organized borough remain in effect until superseded by the action of the organized borough.

(b) The borough shall make written notice of its assumption of the powers, duties, and other items enumerated in section 130 of this chapter to the city, service area, or special district concerned prior to the assumption. Borough officials shall consult with the officials of the city, service area, or special district concerned and arrange for an orderly transfer.

(c) After the incorporation of an organized borough, no service area or special district within it may assume new bonded indebtedness, make any contract, or transfer any assets without the consent of the borough assembly.

FOLLOWING COMMENTS AND POINTS WOULD APPEAR PERTINENT TO THE SITUATION:

1. Various sections cited above speak of powers being transferred from or by a city to a first and second class borough. In view of the ambiguities of these sections, could not the question be raised as to whether or not it is meant to be mandatory that the city no longer has the authority to exercise a power but, rather, that by vote of the people the second class borough is given the authority to exercise the power areawide if both the city and borough agree to transfer of same?

NOTE

2. The intent of the second class borough was that the people would have the say by vote whether or not the borough is to exercise additional powers whether those powers be areawide or outside cities only. The city is part of the borough and the city voter has just as much right to a voice in their second class borough government as the voter outside the city when it comes to adding areawide powers. The law is very clear that before the borough may exercise a power outside cities the people residing outside cities must vote on and approve the addition of the power. On the other hand, various sections of the law state that the city "may transfer to the second class borough" and that the second class borough "shall first seek to have transferred from cities.... those powers which it intends to exercise in the area outside the city." So here you have a situation where the home rule city voter does not have a vote on the matter of a second class borough adding the exercising of a power areawide while the voter outside the city does. This method amounts to a disenfranchisement of the city voter as regards services his second class borough shall render him, unless Sec. 07.15.350 means what it clearly says and that the vote does indeed have to be areawide. If it does mean that the vote must be areawide, why then does the law state, "Before exercising any of these powers in the area outside cities, the borough shall first seek to have transferred from cities.....", if it does not mean that indeed the city must agree to transfer the power after the people have voted the authority for the borough to exercise the power?

3. Mr. Richard Gantz, Bond Council for City of Anchorage, in a letter to Mr. Karl Walter, City Attorney, dated March 5, 1968, when rendering an opinion on whether or not the City could legally sell outstanding G.O. bonds authorized in 1963, made these points:

"The City of Anchorage is, therefore, in the position of being a charter city of the first class but situated in a second class borough. If the statute means what it seems clearly to say and if the statute is constitutional, the City of Anchorage will have no further power to exercise the sewer function once the Borough has begun to exercise the sewer power. For the purpose of this opinion, we will assume the constitutionality of Sec. 07.15.310, although a fairly strong constitutional argument could be made if the section means that all of the sewer facilities financed by the taxpayers of the City of Anchorage and built by the City become the property of the Greater Anchorage Area Borough by virtue of an areawide vote granting the Borough the sewer power. Such a result, if not unconstitutional, would certainly be a peculiar one. A first class borough can only obtain areawide powers with the consent of the first class city within its boundaries, while a second class borough can obtain an areawide power without the consent of the first class city. If constitutional, the treatment in the two situations is certainly inconsistent. We, however, do not attempt to pass on the constitutionality of the statute at this time and assume its constitutionality."

"Inasmuch as we have distinguished the existence of an areawide sewer power from the exercise of the areawide sewer power by the Borough, it is appropriate to comment on Sec. 07.15.800(d), which states that the added power or powers go into effect on the day following the date of the certification of their approval by the voters. It is self evident that the immediate exercise of an areawide power by the Borough would be impossible and therefore we think the distinction between the authority to exercise the power and the actual exercise of the power is meaningful. There is at least some analogy to the transitional section which is 07.10.140. That section specifically permits cities, service areas,

and special districts to continue to exercise the powers which have been assumed by the Borough until such time as the Borough makes written notice of its assumption of the power."

"In conclusion, it is our opinion that the City of Anchorage may legally issue and sell general obligation sewer bonds as long as it continues to exercise the sewer function and the Borough has not exercised its areawide sewer power in such a way as to assume jurisdiction of the city sewer facilities. We have not passed upon the constitutionality of any part of the Borough Act as provided in the Alaska Statutes, but have assumed this constitutionality for the purposes of this opinion. Naturally, if the provision allowing the second class borough to assume the areawide sewer power without the consent of the governing body of the city should be held unconstitutional, the City could continue to operate its own sewer system and incur indebtedness therefor until such time as it voluntarily transferred the sewer function to the Borough."

4. It might well be argued that Sec. 07.15.310 is speaking only to those areawide powers made mandatory by the borough act, or those specified in the petition approved by the voters at the time of incorporation, as no longer being allowed to be exercised by the city once that power is being exercised by the borough and that it is not speaking to additional areawide powers that may be placed on the ballot later.

5. Sections 07.10.130 and 140, which deals strictly with the integration of existing special districts and service areas and transitional provisions of the mandatory powers at the time of incorporation of the borough, are very explicit as to how the transition shall take place and that the borough shall and does have the statutory authority to succeed to all the "rights, powers, and duties..... including, but not limited to claims, franchises, and other contractual obligations, and liability for bonded and all other indebtedness"

The law is silent, however, on these matters when an areawide power is voted to the second class borough. Therefore, if it is meant, when additional areawide powers are authorized by vote of the people, that this is a mandate that the second class borough shall have the same authority and scope of areawide power as set forth in sec. 07.15.310 for mandatory powers at time of incorporation, and that cities no longer may exercise or have any say in such added areawide powers, then why did not the law provide for the necessary statutory authority for assumption of such areawide powers by the borough as they did for the integration of special districts? Was it intended that provisions of home rule charter cities would be ignored when an areawide power is granted a second class borough by vote of the people?

This again would seem to point up that a strong argument can be made for the fact that the law might mean that a vote of the people only gives the borough the authority to exercise the power areawide but that both the borough and city must agree upon the transfer of that power from the city. It follows, though, that it certainly is incumbent upon both the borough and city to recognize the wishes of the people by working out a transfer agreement when they have voted an areawide power to a second class borough.

Sec. 07.15.010(7) is amended to read:

Sec. 07.15.010. Powers of first and second class boroughs.

(7) to levy all taxes and special assessments, enforce tax liens, and assess and collect penalties in the manner provided for first class cities. It may levy

(A) areawide taxes for areawide functions, except that when service areas have been established as provided in Sec. 07.15.050(b)(3) taxes may be levied within service areas, if necessary, even though the function is an areawide power;

(B) taxes limited to the area outside cities for functions limited to the area outside cities, except that when service areas have been established as provided in Sec. 07.15.050(b)(3) taxes may be levied within service areas, if necessary, even though the function is an areawide power; and

(C) taxes within service areas for special services limited to the service area;

EXPLANATION:

(7)(A) - this is to assure that taxes do not have to be uniform throughout the borough for an areawide or non-areawide power as is now argued.

(7)(C) - This places the assembly's authority to levy taxes for services areas under the general powers in order that there will be no doubt that only the assembly has the power to levy taxes. Refer to Sec. 07.15.050(b) - another proposed amendment would repeal this section since it is a partial repeat of 07.15.010(7) as now written. Also, refer to 07.15.050(e) - another proposed amendment would repeal this section and restate it without the last sentence. Refer to note on 07.15.050 amendment.

1/5/71 - As regards taxes not having to be uniform basis throughout the borough for an areawide or non-areawide power, the City of Anchorage brought suit against the Greater Anchorage Area Borough as to the legality of this point. The court ruled in favor of the Borough and differential taxation is legal even though the Borough has authority to exercise a power areawide. It would seem appropriate that the law be amended to clearly define this.

Wilda Hudson
11/18/70

Sec. 07.15.030(3) is amended to read:

Sec. 07.15.030. Indebtedness.

(3) on a service area basis for functions performed in a service area only; payment of debt principal and interest as well as other costs shall be limited to the service area, except that, subject to the election requirements of AS 07.30.010(b), the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest. When the full faith and credit of the entire borough is pledged, vote on the question shall require a favorable majority of the votes cast both inside the service area as well as a favorable majority of the entire borough, including cities of any class.

EXPLANATION:

Considering the number of voters residing a service area vs remainder of a borough, it really is unfair for the service area residents not to have a "veto" power when it is their taxes that will have to pay off the bonded indebtedness.

Sec. 07.15.050 is amended to read:

Sec. 07.15.050. Service areas.

(a) Service areas (TO PROVIDE SPECIAL SERVICES) within a first or second class borough may be established, operated, altered, or abolished by ordinance. Service area boundaries may be overlapping when necessary to provide services as set forth in this section.

(b) (THE ASSEMBLY MAY LEVY OR AUTHORIZE THE LEVYING OF TAXES, CHARGES, OR ASSESSMENTS IN SERVICE AREAS TO FINANCE THE SPECIAL SERVICES. NO SPECIAL ASSESSMENT MAY BE LEVIED EXCEPT AS PROVIDED BY LAW FOR FIRST CLASS CITIES.)

Service areas may be established for the following reasons:

(1) To provide special services to a specific area or to provide for implementation of a specific power based on a given level of service.

(2) To provide services to accomodate differing problems of differing areas as circumstances may dictate.

(3) To provide special service district for differential tax purposes when the borough exercises a power areawide or in the area outside cities only. When the borough exercises the power areawide, service areas as defined in this sub-section may include all or a portion of a city of any class, whether homo rule or not.

(c) The Assembly may provide for appointed or elected boards to supervise the furnishing of special services in service areas. Such boards may not be delegated any of the legislative powers of the assembly.

(d) A new service area (MAY) shall not be established if, consistent with purposes of this section, the new service can be provided by an existing service area, or by annexation to a city, or incorporation as a city.

(e) (THE ASSEMBLY MAY DELEGATE ANY POWERS PRESCRIBED BY SEC. 710 OF THIS CHAPTER TO A SERVICE AREA. IN A SECOND CLASS BOROUGH, EACH DELEGATED POWER MUST BE APPROVED BY A MAJORITY OF THE QUALIFIED VOTERS VOTING ON THE QUESTION WHO RESIDE WITHIN THE SERVICE AREA. THE RATE OF TAXATION AND THE ISSUANCE OF BONDS SHALL REMAIN SUBJECT TO THE APPROVAL OF THE ASSEMBLY.)

Within any service area, in addition to other powers granted by this title,
(1) in a first class borough the assembly may exercise any power granted a
first class city by general law, and (2) in a second class borough such
exercise of power must first be approved by a majority of the qualified voters
voting on the question who reside within the service area.

EXPLANATION:

Well, I've finally done it - attempted to put in words the "tool" we've been saying, with much verbage, that the service area can and should be. Besides, this is what we are doing in actual practice now.

- (a) This amendment is self-explanatory.
- (b) This amendment repeals the sub-section (b) as written since this is now more properly provided for in 07.15.010(7)(A)(C). New sub-section (b) is an attempt to spell out the various "routes" service areas can take to carry out the "intent" of (a). Also, it gives authority for service area boundaries to overlap city boundaries.
- (c) Refer to (e). This section allows assembly to delegate powers - I assume to the boards provided for in (c). Personally, I'm opposed to this since I feel all legislative power should remain in the hands of one body - look at the problems with school board now. Anyway, this amendment would make it clear.
- (e) This amendment repeals the sub-section (e) as written. New wording is self-explanatory. This wording was lifted from 07.15.710 to assure more uniformity.

1/5/71 - Two court cases concerning the Greater Anchorage Area Borough have been ruled in favor of the GAAB as concerns service areas and those two cases deal with what the GAAB is doing in actual practice now and, therefore, it would appear appropriate that the methods and circumstances under which service areas may be formed should be more clearly defined.

Wilda Hudson
1/24/70

Sec. 07.15.060 is amended to read:

Sec. 07.15.060. Transferred powers.

First (AND SECOND) class boroughs shall exercise all powers transferred to them by cities under this chapter.

EXPLANATION:

This removes the grey area of whether a city may transfer a power to a second class borough when another section clearly states the borough may not assume additional areawide powers unless the vote is areawide. Also, to allow the transfer of a power from a first class home rule city to a second class borough, in effect, amounts to a disenfranchisement of the city voters as regards services his second class borough shall render him while giving the right to vote to the voters outside the city.

In addition, this recognizes the vote of the people as being the higher authority and once they have voted the power to the second class borough to be exercised areawide it must then be assumed by the borough. The provision for the "transfer" of the power from a city to a second class borough is provided for under the amendments that are proposed for the transitional measures.

Sec. 07.15.350 is amended to read:

Sec. 07.15.350. Additional areawide powers.

(a) First class boroughs acquire additional areawide powers,

(1) by transfer from a city as provided in Sec. 07.15.060 and Sec. 07.15.910 of this chapter; or

(2) by an initiative or referendum brought by the voters of the city as provided by law or charter if or the city council has refused to transfer the power in question. Vote under this procedure shall be limited to the qualified voters within the city. In the case of home rule cities any special provision of the charter is superceded. The question must carry by a majority vote.

(b) Second class boroughs acquire additional areawide powers in the same manner as provided (BY SEC 710-800) in Sec. 07.15.730 - 750 of this chapter for their acquisition of additional powers to be exercised in the area outside cities only, except that the vote on the question (IS) shall be areawide and the adoption of an added areawide power requires a favorable majority of the votes cast both in the cities and in the area outside cities.

(c) No city of any class, whether home rule or not, within an organized borough may exercise any areawide power once that power is being exercised by an organized borough when

(1) the power has been added as an areawide power by the voters of a first or second class borough; or

(2) the power has been transferred from a city to a first class borough in accordance with sub-section (a)(1) of this section, except that a city may revoke such a transfer as provided in Sec. 07.15.910 of this chapter at which time the first class borough may no longer exercise the power areawide.

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SEE EXPLANATION ON ATTACHED PAGE

EXPLANATION:

This recognizes the vote of the people as being the higher authority and that once they have authorized the borough to exercise a power areawide it cannot be revoked.

Also, this provides for a "veto" power for the two areas - inside vs outside the city. This is the feature in the unification law that has been pleasing to both sides. Oddly enough I find that Sec. 07.10.120(2) makes this provision for any additional power contained in the original petition at the time of incorporation. Wonder why the legislature did not follow this same concept through in this section as now written?

11/18/70 - Amended Further. W.H.

Sec. 07.15.350 is amended to read:

Sec. 07.15.350. Additional areawide powers.

(a) First class boroughs acquire additional areawide powers,

(1) by transfer from a city as provided in Sec. 07.15.060 and Sec. 07.15.910 of this chapter; or

(2) by an initiative or referendum brought by the voters of the city as provided by law or charter after the city council has refused to transfer the power in question. Vote under this procedure shall be limited to the qualified voters within the city. The question must carry by a majority vote and in the case of home rule cities any special provision of the charter to the contrary is superceded.

(b) Second class boroughs acquire additional areawide powers in the same manner as provided (BY SEC. 710-800) in Sec. 07.15.730-750 of this chapter for their acquisition of additional powers to be exercised in the area outside cities only, except that the vote on the question (IS) shall be areawide and the adoption of an added areawide power requires a favorable majority of the votes cast both in the cities and in the area outside cities.

(c) No city of any class, whether home rule or not, within an organized borough may exercise any areawide power once that power is being exercised by an organized borough.

EXPLANATION:

After giving amendments to this section additional thought, it is my opinion that it is better to drop sub-section (c)(1)&(2) and not allow any power that has been transferred areawide to be revoked. Under this proposed amendment this section would read as does Sec. 07.15.310 regarding a city not being allowed to exercise a power once it is exercised areawide. See amendment to Sec. 07.15.910 that would amend the feature allowing a city to revoke a power out of that section. The reasoning behind this is that if a city transfers a power with assets and liabilities involved then the borough accumulates additional assets and liabilities, how would a reasonable and appropriate determination regarding separation of same be made? Who would continue to be responsible for the debts acquired areawide? If the original assets and liabilities of the city had been spread as a responsibility of the taxpayers of the entire borough, or a portion thereof, how would an appropriate accounting be made if the city revoked the power?

PROPOSED NEW AMENDMENT

Sec. 07.15.510 new section is added as follows:

Sec. 07.15.510. Transition of additional powers.

(a) When the term "borough" is used in this section, it shall mean either first or second class borough that has been authorized the assumption of additional areawide powers as provided in Sec. 07.15.350, sub-section (a)(2) and sub-section (b).

(b) The power exercised by the cities which are succeeded to by the borough shall continue to be exercised by the cities until such time as the borough exercises the power, which time may not exceed two years after the date of the certification of their approval by the voters as provided in Sec. 07.15.570(c). Ordinances, rules, resolutions, regulations, procedures, and orders in effect prior to assumption of the added areawide power by the borough remain in effect until superseded by action of the borough.

(c) The borough shall make written notice of its assumption of the added areawide power to the cities 60 days prior to the exercise of same. Borough officials shall consult with the officials of the cities and arrange for an orderly transfer.

Lack of an agreement between the borough and city as to an orderly transfer shall not preclude the borough from assumption and exercise of the added areawide power provided due notice of conditions and terms as set forth in sub-section (c) above has been given the city concerned.

(d) It shall be incumbent upon the borough and the city concerned to set forth in an agreement in what manner and to what extent the borough assumes the items enumerated in Sec. 07.15.520, any credits that will be allowed the city for existing assets, and any and all other methods and conditions of transition for the assumption of the added areawide power succeeded to by the ^{borough} /from the city.

(e) After certification of voter approval for the borough to acquire the additional power no city of any class, whether home rule or not, may assume new bonded indebtedness, make any contract, or transfer any assets in connection with the power in question without the consent of the borough assembly.

EXPLANATION:

Presently there is no provision for transition of additional areawide powers that might be voted by the people. This pretty much follows that section of the borough law relating to special district and service areas when a borough is first incorporated. Refer to Sec. 07.10.130-140.

This added new section along with new section 07.15.520 sets forth guidelines for transfer and assumption of powers areawide by the borough from a city.

Sec. 07.15.510 new section is added as follows:

Sec. 07.15.520. Assumption of additional areawide powers.

(a) When the term "borough" is used in this section it shall mean either first or second class borough that has been authorized the assumption of additional areawide powers as provided in Sec. 07.15.350, sub-section (a)(2) and sub-section

(b) Any additional areawide power acquired by the borough shall be assumed and exercised by the borough within two years after the date of the certification of their approval by the voters as provided in Sec. 07.15.750(c).

(c) The borough shall succeed to all the powers, rights, and duties of the cities as relates to the assumption and exercising of the added areawide power. In the event a conflict exists between the powers of a first class city of the added areawide power and the powers of the city to which the borough succeeded, the borough may exercise the greater powers.

(d) The borough may assume, but is not limited to, all claims, franchises and other contractual obligations and liability for bonded and all other indebtedness and may succeed to all of the rights, title and interest in the real and personal property held by the cities upon assumption of the added areawide power by the borough from the cities. Assumption of any of the items enumerated in this section shall be set forth in the notice of assumption as provided in Sec. 07.15.510(d).

(e) The borough assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the cities for the added areawide power to which the borough has succeeded for the continuing services within the cities, or for the future indebtedness incurred by the borough in the cities. When a city has a previously incurred bonded indebtedness, no less than all property that is within the boundaries of the city concerned at the time the added areawide power is assumed by the borough shall remain subject to taxation to pay the principal of and interest on the bonds for as long as they remain outstanding. Nothing in this

sub-section shall preclude the borough assembly from spreading the previously incurred bonded indebtedness of the city concerned over an area larger than that of the boundaries of the city.

(f) Upon assumption of an added areawide power by borough from the cities, nothing shall preclude the cities from retaining title to the existing physical assets and the liability for bonded and all other indebtedness, if the borough so desires, except where cities are given the right to revoke a transfer of a power. It is mandatory that full and complete power to exercise the added areawide power shall be solely that of the borough from the time of assumption of the power. With consent of the borough assembly, if the city retains the assets and/or the liabilities, the city concerned may be allowed to continue to collect any outstanding special assessments and to levy a tax related to the indebtedness prior to the assumption of such power by the borough.

(g) If the borough shall succeed to all bonded indebtedness, including bond anticipation notes and refunding bonds of the city from which the added areawide power is assumed by the borough, a bondholder of any municipal bonds relating to the assumed power may commence an action in Superior Court for such equitable relief to secure the rights of the bondholders and other bondholders similarly situated as provided in the bond ordinances and agreements. The bondholders shall waive any objections or defenses to the succession of the borough to the bonded indebtedness and agreements unless such action is filed within six months after the borough has assumed the added areawide power.

(h) In the event any action is instituted to require the borough to compensate a city for any real or personal property acquired by virtue of this title, the borough shall be liable for payment of any damages resulting from the acquisition of such real or personal property. No action shall be instituted to require the borough to compensate the city in question for such assets unless such action is commenced within one year from the date of the written notice as required by Sec. 07.15.510(c).

Wilda Hudson
1/24/70

Sec. 07.15.720 is amended to read:

Sec. 07.15.720. Powers of second class borough.

In addition to other powers granted by this title, the second class borough may exercise only those powers in the area outside cities which are among the powers of a city of the first class and either (1) specified in the petition and approved by the voters for incorporation or (2) added as provided (BY) in Sec. 07.15.730-750 of this title. These powers shall be exercised in the manner provided by general law for first class cities except as provided otherwise by this title. Before exercising any of these powers in the area outside cities, the borough shall first seek to have (TRANSFERRED FROM CITIES) the power added as an areawide power as provided in Sec. 07.15.350, or propose the joint exercise with cities, those powers which it intends to exercise in the area outside any city.

EXPLANATION:

This removes the grey area of whether a city may transfer a power to a second class borough when another section clearly states the borough may not exercise a power areawide unless the vote is areawide.

This seeks the addition of the power areawide by vote before borough exercises the power outside the city, rather than the term "transfer". Should the power be added areawide, the provision for transferring the power is provided for in other amendments that are proposed.

Sections 07.15.730 through 07.15.800 are repealed in their entirety and the following substituted:

Sec. 07.15.730. Additional powers for second class borough.

(a) The second class borough may initiate the acquisition of additional powers which it may exercise in the area outside cities only by

(1) the assembly placing the question on the ballot;

(2) the voters may file a petition with the assembly. Such petition shall require the signatures of a number of qualified voters equal to 15 percent of the number of votes cast in the area outside the cities at the preceding regular borough election. *ADD (3) - See page 2*

Sec. 07.15.470. Investigation.

(a) Upon receipt of a petition from the voters, the assembly shall review the petition within 15 days after its receipt to determine whether it meets the requirements. If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied.

(b) The assembly shall hold at least one public hearing on the question and shall then evaluate the ability of the borough to exercise the power or powers in question and shall make its findings public.

Sec. 07.15.750. Election.

(a) The assembly shall, within 30 days after its findings have been made public, order an election to be held. The date of the election shall be not less than 30 days and not later than the next regular borough election.

(b) If more than one power is proposed, each shall appear separately on the ballot.

(c) The chairman shall certify the election results and a copy of such certification shall be forwarded to the Local Affairs Agency. If the majority of the votes cast on the question is favorable, the added power or powers go into effect on the day following the date of the certification of their approval by the voters. The borough shall assume the exercising of the added power or powers within two years from the date of certification as provided in this title.

Explanation:

Obviously this removes the cumbersome process of petitioning the Local Affairs Agency and the Boundary Commission hearings.

NOTE

Addition following Sec. 07.15.730(a)(2)

Sec. 07.15.730 (a)

(3) If the vote is to be areawide such petition shall also require the signature of a number of qualified voters equal to 15% of the number of votes cast inside the city at the preceding regular borough election.

Wilda Hudson
1/24/70

Sec. 07.15.910 is amended to read:

Sec. 07.15.910. Transfer by city.

A city may transfer to the first (OR SECOND) class borough in which it is located any of its powers or functions subject to the approval of the borough assembly. A city may not revoke the transfer of any power or function to the borough unless the revocation is approved by a majority of its council.

*See new proposed
Amendment Below.
W.H.*

EXPLANATION:

This, along with Sec. 07.15.060, removes the grey area of whether a city may transfer a power to a second class borough when another section clearly states the borough may not assume additional areawide powers unless the vote is areawide.

This recognizes the vote of the people as being the higher authority and once they have voted the power to the borough the exercise areawide it must then be assumed by the borough. The provision for the "transfer" of the power from a city to a second class borough is provided for under the amendments that are proposed for the transitional measures.

11/18/70

NOTE

After giving additional thought to the complications that could occur if a city is allowed to revoke the transfer of a power to a borough (see explanation to proposed new amendment to Sec. 07.15.350), the following amendment is suggested for Sec. 07.15.910

Sec. 07.15.910 is amended to read:

Sec. 07.15.910. Transfer by city.

A city may transfer to the first (OR SECOND) class borough in which it is located any of its powers or functions subject to the approval of the borough assembly. A city may not revoke the transfer of any ^{power} ~~power~~ or function to the borough (UNLESS THE REVOCATION IS APPROVED BY A MAJORITY OF ITS COUNCIL) once such transfer has been made and the borough is exercising the power or function in question.

07
AS. 20.100. Ordinance of procedure.

(c) As used in this section the term "published" means that

(3) copies of the ordinance or sections concerned, together with any required notice, have been posted conspicuously for public inspection at the borough seat (AND AT OTHER CITIES IN THE BOROUGH,) in all first class cities in the borough and at such other places as the assembly may direct.

(4) copies of the ordinance or sections concerned, together with any required notice, have been mailed to the clerk of each city of any class in the borough.

PURPOSE: Posting notices is an old-fashioned method of public notification which, in most communities, has been made obsolete by mass media communications. It can be difficult and expensive to accomplish, particularly where third or fourth class cities have been incorporated in relatively inaccessible locations within a borough. It is also of very little value if those third and fourth class cities are occupied only seasonally or by people who commute into the major town to work every day and subscribe to the local newspaper. Unless the city has a post office or some other public place where all residents must pass frequently, the posted notice quite likely goes unnoticed. (No quip intended) A combination of posted notices in first class cities, mailed notices to all others - whose clerks may post them if advisable - and the newspaper publication should be adequate notice.

The law as it now stands has been interpreted by legal authority to require the clerk to do or see to actual physical posting in such third class cities as Glen Alps, Basher and a seasonally occupied city on an island in Big Lake.

1/19/71
Wilda Hudson

Sec. 07.30.010(b) is amended to read:

Sec. 07.30.010. Qualification of voters.

(b) (ONLY QUALIFIED VOTERS WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY) Any qualified voter may vote on a question of incurring bonded indebtedness by a borough. If the debt to be incurred is to be an areawide debt, the vote shall be areawide. If the debt to be incurred is to be limited to the area outside cities only, the vote shall be limited to the qualified voters (WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY LOCATED) in the area outside cities. If the debt to be incurred is to be limited to a service area only, the vote shall be limited to the qualified voters residing within the service area (WHOSE NAMES APPEAR ON THE LAST TAX ASSESSMENT ROLL OR RECORD OF SUCH BOROUGH FOR PURPOSES OF BOROUGH TAXATION ON REAL PROPERTY LOCATED IN THE SERVICE AREA). However, if the full faith and credit of the entire borough is to be pledged for payment of the service area debt, the vote shall be areawide.

EXPLANATION:

This amendment is proposed on the basis of the Supreme Court ruling regarding this area. I realize that there still questions still pending in some quarters relating to this matter. I have only included it in case the law needs to be changed to conform to the Supreme Court ruling.

AS 07.30.100. Borough sections

(a) Section boundaries shall be established in such a way as to provide, insofar as possible, clarity of boundaries, compactness of area, equal (VOTER) representation among different sections, and homogeneity of interest within the section. No section may have a (NUMBER OF VOTERS WHICH IS LESS THAN ONE HALF THAT OF ANY OTHER SECTION, AS DETERMINED FROM THE RECORDS OF THE LAST GENERAL ELECTION.) population which is 10% more or less than that of any other section, as determined from the most recent U. S. Census figures.

PURPOSE: "One man - one vote". This was the rule at the time of our last reapportionment and we did it accordingly - by population. Here again, we have something in our state law that is unconstitutional; so why not fix it?

The figure of 10% was taken "out of a hat" by this writer. Actually courts in other areas have ordered reapportionment because of a variance of as little as 3%. I don't think our statute need be that strict, however, as that even an apportionment is very difficult to accomplish without wholesale revision of precinct boundaries - frequently in the case of a rapid-growth area.

Willda Hudson
2/15/70

Sec. 07.35.020 is amended to read:

Sec. 07.35.020. Reclassification.

(a) a first class or second class borough may adopt or repeal a home rule charter in the manner prescribed by AS 29-40-010-090, except that members of the charter commission shall be the same in number and the commission shall be apportioned the same as the borough assembly.

(b) A second class borough may reclassify as a first class or a third class borough in the same manner provided by this title for the addition of powers of a second class borough. Instead of specifying powers to be added, the petition shall request that the borough be reclassified as a first class or a third class borough. Voting on the question shall be areawide and the adoption of reclassification shall require a favorable majority of the votes cast both in the cities and in the area outside cities. (RECLASSIFICATION AS A FIRST CLASS BOROUGH IS LIMITED TO THE QUALIFIED VOTERS RESIDING OUTSIDE CITIES WITHIN THE BOROUGH). The Assembly of the Second Class borough voting on reclassification shall remain the Assembly of the reclassified borough. Provisions for the legislative and administrative structure of the third class borough shall be set forth in Sec. 07.17.030(a).

(c) A third class borough may reclassify as a second class or a first class borough in the same manner provided by this title for the addition of powers by a second class borough. Instead of specifying powers to be added, the petition shall request that the borough be reclassified as a first class or a second class borough. (A SECOND CLASS BOROUGH MAY RECLASSIFY AS A THIRD CLASS OR A THIRD CLASS BOROUGH)

Sec. 07.35.020 (continued)

Voting on the question shall be areawide and the adoption of reclassification shall require a favorable majority of the votes cast both in the cities and in the area outside cities.

(THE THIRD CLASS BOROUGH ASSEMBLY SHALL BE ELECTED AT THE TIME OF VOTING ON RECLASSIFICATION OF THE BOROUGH.) The assembly of the third class borough voting on reclassification shall remain the assembly of the reclassified borough. The school board of the reclassified borough shall be elected at the time of voting on reclassification of the third class borough. The ^{proposition} ~~petition~~ for reclassification of a third class borough shall include ^{the question of} ~~whether~~ the executive of the reclassified borough shall be (1) an elected chairman or (2) a hired manager. The borough chairman shall be elected at the time of voting on reclassification of the third class borough.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

S U M M A R Y

COMPARISON OF CSSB 113 AND EXISTING MUNICIPAL LAW

INTRODUCTION

Senate Bill 113, the current version of the revised municipal code, is an entire recodification of the laws relating to cities and boroughs now found in Titles 7 and 29. Like other reorganized and updated statutory titles, it incorporates changes from existing law both in form and in substance.

The revision was directed by the 1963 Legislature, which noted that the bulk of law relating to cities (Title 29) was a disjointed product of the territorial period. Addition of the Borough Act as a separate title in 1961 (Title 7) further confused the municipal law area.

In 1963 and 1964, the Local Affairs Agency, Department of Law and the Legislative Council prepared the first draft of legislation combining and attempting to reconcile the provisions of Titles 7 and 29. The revision was introduced as SB 101 in 1965 and was the subject of widespread hearings around the state, committee deliberations, and further revision.

Revised versions of SB 101 were introduced into the legislature in 1966, 1967 and 1969.

SB 113, the basis of the current proposal, represents a thorough review by the Alaska Municipal League and governmental agencies at the municipal and state levels. The League felt that revision should be primarily technical and should not attempt to solve the substantive problems existing in two areas, that of relations between cities and boroughs and that of relations between schools and general government.

Accordingly, the bill in these areas is substantially the same as existing law, with some exceptions as noted further (see especially pages ~~5-11~~: 6, 7, 9 and 12-14).

It is virtually impossible to detail all of the changes that have taken place between the code and existing municipal law, but this summary will explain the major impact of the revision. It takes into account changes made after joint deliberations of the Senate and House Local Government Committees which resulted in CSSB 113. These changes between CSSB 113 and SB 113 are also separately treated in an attachment following this summary.

Chapter 3. The Unorganized Borough

The law relating to the unorganized borough is unchanged. The present provisions of Title 7 granting authority to the division of lands to adopt zoning regulations for federal lands in the unorganized borough at the request of the Secretary of the Interior and only for purposes of facilitating federal land sales in the unorganized borough is placed in Title 38 (Sec. 6 of the proposed Act).

Chapter 8. Classification of Municipalities (i.e. Cities and Organized Boroughs)

One of the most significant changes is the change from four classes of cities to two classes of cities. The primary difference in the revision between the first and second class cities is that the first class city has the school function and has the power to assess, levy and collect a general property tax while the fourth class city has neither of these powers. Under present law, first, second and third class cities all have these powers, while fourth class cities do not. A population minimum of 400 persons has been set as the number

necessary to incorporate a first class city under the code, as in present law. The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the proposed Act. Existing second and third class cities of 400 or more persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given the option of becoming either first class or second class, depending upon their abilities and desires, as assessed by the local boundary commission and subject to legislative review. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020). The code provides for reclassification of cities and boroughs to a higher class. Upon reclassification of a third class borough to a second or first class borough the borough may retain a combined assembly-school board or may separate the functions between an assembly and a board, depending upon the wishes of the voters (Sec. 29.08.040).

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough (Secs. 29.13.010 - 29.13.080). Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections of the code which are specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections

themselves contain a specific reference making them applicable to home rule municipalities (Secs. 29.13.100).

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized (Secs. 29.18.050 - 29.18.110). The election of the first slate of officers is separated from the question of incorporation itself.

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities incorporating after the code takes effect. Organizational money grants based on an allocation of \$10 per voter are allowed the newly incorporating boroughs and cities of all classes, other than unifying or consolidating municipalities. A minimum grant of \$25,000 is authorized for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180).

Under the revised code boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries. (Secs. 29.18.190 - 29.18.200). Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code provisions, consistent with the best interests of the state.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' terms of office are changed to conform to the date of state general elections, but terms of office may be varied by local ordinance so as to provide either staggered or simultaneously expiring terms up to four years (Secs. 29.23.040, 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (Sec. 29.28.010).

The executive power has remained essentially the same except that the veto power of borough chairmen and mayors of first class cities has been broadened and clarified. In the past, there has been a question of whether a veto could be used for motions and other actions of the assembly or council. It is clearly spelled out that they may be.

Additionally, a new authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the only power the assembly or council has is to approve or disapprove the total school budget, and the chairman or mayor may only veto that which the assembly or council has power to enact) (Secs. 29.23.170 and 29.23.270). The mayor of a second class city is a member of the council and has no veto power (Sec. 29.23.270(b)).

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then designate a mayor from among their membership (Sec. 29.23.250). The

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.-23 270). The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

A provision of present law applying only to first class cities and requiring written examination of police officer applicants on laws and ordinances, the examination to be graded by the council, is not retained in the code.

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). Election sections for election of borough assemblymen in the borough area outside cities are permitted, as under present law, with sections to be of approximately equal population (Sec. 29.23.100).

Utility boards elected by the voters or appointed by the municipal executive and confirmed by the governing body are permitted for boroughs and cities (Sec. 29.23.340). (Elected boards only are authorized to general law municipalities under existing statutes.)

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding four years authorized by local ordinance, and local governing bodies are authorized to provide for centralized purchasing of those school supplies and equipment which are of a kind used by municipal departments (Sec. 29.-48.250, and Secs. 29.23.310 and 29.23.340).

In addition, the code makes clear that Sec. 29.33.050 setting out school board-governing body relationships is not intended to apply to home rule municipalities. There is uncertainty whether the same provisions as they appear in present law apply to home rule governments.

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23-410 - 29.23.480).

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, a financial report, and reports relating to long-term debt as already required under AS 44.19.205. The financial report takes the form of the annual audit for boroughs and first class cities, but second class cities may submit a statement of income and expenditures. Furnishing the reports is made a condition of receipt of authorized shared revenues under AS 43.18 (Sec. 29.23.560).

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law (Sec. 29.23.020). Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years for borough and city governing bodies, and three years for school boards (the maximum term permitted under present law)

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.28.040).

Assemblies and councils are required to provide by ordinance for election appeals. If the appeal is successful, the assembly or council bears the cost; if unsuccessful, the contestant must pay (Sec. 29.28.-050).

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of these powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110).

The section on recall has been changed to eliminate the successor running at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250).

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) assessment and collection of taxes, (2) education, and (3) planning, platting and zoning. Under current law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the new code broadens this to include the collection of use

and sales taxes authorized by the voters (Sec. 29.33.030).

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the placing of power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than the boroughs as part of the area-wide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, boroughs now exercising the powers within cities may continue to do so upon agreement to that effect between a city and a borough; if there is no agreement, the city is required to exercise the powers within the city and the borough now exercising the powers is required to continue doing so outside the city. Areawide borough exercise of the powers may subsequently be acquired through transfer by the cities or by vote of the people (Sec. 29.48.025). (Present borough law has been interpreted by the Attorney General's office to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under existing laws relating to acquisition of additional areawide powers, it is unclear whether second class boroughs may, like first class boroughs, acquire additional areawide powers by transfer from cities. The revision explicitly authorizes this method. Also, the Local Affairs Agency is no longer required to pass upon the acquisition

of additional areawide powers. In both the revision and present law, additional areawide powers require approval by a majority of the borough voters (Secs. 29.33.250 - 29.33.290).

Chapter 38. Borough Powers and Duties in the Area Outside Cities

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.010).

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.38.020), except with respect to certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law. Acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency.

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged.

Chapter 43. Powers of Cities Outside Boroughs

Authority is continued for cities outside boroughs to assess, levy and collect property and sales taxes. Use tax authority is also conferred. Taxes are to be assessed, levied and collected in the same manner as set forth for boroughs in the code.

FIRST CLASS

✓ Cities outside boroughs continue to comprise city school districts, with relationships between school boards and city councils to be governed in the same manner as those between borough school boards and assemblies, as under present law.

Home rule and first class cities outside boroughs must, and second class cities may, provide for planning, platting and zoning in the manner provided in the code for boroughs under the code (present law does not expressly require home rule or first class city exercise of planning, platting or zoning authority).

The chapter makes borough laws incorporated by reference under the chapter applicable to home rule cities only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Chapter 48. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution (Secs. 29.48.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of the object or purpose intended to be accomplished (Secs. 29.48.320 and 29.48.330).

The procedure for enactment of ordinances has been simplified and streamlined without changing substantive rights. The code, however, changes the time between publication and hearing from one week to five days. The change permits special meetings for final consideration of

a proposed ordinance to be held on the same day as regular meetings (Sec. 29.48.140). The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances (Sec. 29.48.180). Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190).

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250).

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.48.270). The thinking is that should a disaster strike the classification of the city is not particularly relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and use taxes but not property taxes (Sec. 29.53.400). Within a borough the borough collects all of the taxes, provided the borough itself levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself (Sec. 29.53.450). Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). (This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only of general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes (Secs. 29.53.010 - 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law (Sec. 29.13.100(19)). Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. ^{of Alaska} No. 647, November 2, 1970).

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions by ordinance ratified by the municipal voters. Any exemptions or exclusions granted by home rule cities and in effect on the effective date of the proposed code would not be affected by enactment of the code.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and

interest on bonded indebtedness (Sec. 29.53.050). Property taxes for other purposes may not exceed three per cent of the assessed property valuation per year, including the combined levy of such taxes within a city by a borough and the city within the borough (Sec. 29.53.050).

There are several changes concerning the enforcement of tax liens. One is that the foreclosure list no longer must be presented to the court on the day of publication. This requirement has created substantial difficulty where the newspaper of publication is not located within the same city as the borough seat or within the city which is foreclosing the taxes. Under the current law, tax foreclosed property is deeded to the borough.

Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property deeded to the city not be needed for public use by the city but needed for public use by the borough, the borough may obtain such property. The same holds true for property deeded to the borough. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.-360 and 29.53.385).

Under present law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under the code both a sales tax and use tax may be levied. The code requires an election on sales tax. Since use tax is a correlative of the sales tax and can only be adopted subsequent to or at a referendum where the sales tax is adopted, no separate election is required for adoption of the use tax (Secs. 29.53.410 and 29.53.420).

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405).

Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040).

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.150). Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default (Sec. 29.58.350), essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved (Sec. 29.58.205). In boroughs if the full faith and credit of the entire borough is pledged for payment of the debt of the borough

area outside cities or a service area, majority voter approval must be obtained both areawide as well as in the area outside or the service area (Sec. 29.58.340(d)); under present law, a boroughwide pledge is expressly authorized for bonds of a service area only.

Chapter 63. Special Assessment and Service Areas

Under existing law, there are two distinct sections on special assessments, each with minor variations and procedures. The major variation was cleaned up last session, but the procedures still vary slightly, depending upon whether the special assessment is initiated by petition of the people or by ordinance of the governing body. While these distinctions are not substantial, it becomes troublesome to determine precisely what procedure should be followed. In both instances, the procedures are extremely cumbersome.

This code standardizes the sections on special assessments to provide the same notice and hearing requirements as in existing codes. The procedural fairness requirements are retained, but much of the unnecessary cumbersome is eliminated.

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. 29.63.010). The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for

annexation and exclusion by local action (Sec. 29.68.010).

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.030).

Unification of local governments is authorized as under present law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically than under present law (Secs. 29.68.350(a)(1) and 29.68.410).

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.500(a)). In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500).

Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020).

THE CODE IN GENERAL

The proposed revised municipal code is primarily a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The proposed code provides a better framework for existing law. It also provides a better framework from which to develop proposals for substantive changes which may be added after individual consideration of each change on its own merits.

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

This is a summary of substantive amendments to Senate Bill No. 113 resulting from deliberations of the Senate and House Local Government Committees meeting jointly. (The preceding summary of CSSB 113 and existing law takes into account the changes noted in this comparison).

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. (Sec. 29.08.040)

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. (Sec. 29.18.020)

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of \$10 per voter. The minimum grant will be \$25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-190)

In selecting lands under the Alaska Statehood Act, it is the policy of the state to make available to boroughs and cities the maximum land area from which to make selections under this section, consistent with the best interests of the state. (Sec. 29.18.190)

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. (Sec. 29.23.040, Sec. 29.23.200, and Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the unorganized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. (Sec. 29.23.170)

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. (Sec. 29.23.200)

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. (Sec. 29.23.560)

A qualified voter contesting an election will bear the costs of a recount unless the result of the election is reversed by the recount. (Sec. 29.25.050)

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee.

(Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. (Sec. 29.43.020, Sec. 29.53.010-29.53.350 and Sec. 29.53.400)

The provisions of Ch. 12, SLA 1971, providing that home rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010)

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020)

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033)

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power by transfer from cities or by areawide vote. (Sec. 29.48.035)

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a))

The property tax exemptions or exclusions required of all municipalities under present law are retained. (Sec. 29.53.020)
General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. (Sec. 29.53.025)

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. (Sec. 29.53.025 (c))

Existing law on valuation of farm land for property tax purposes is added. (Sec. 29.53.035)

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050)

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.53.340 (d))

Boroughs and cities may assess the real property of governments and private citizens for all or part of the costs of capital improve-

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special assessment bonds is added. (Sec. 29.63.060 and Sec. 29.63.085)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions clarify existing law. (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. (Sec. 29.53.405)

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. (Sec. 29.68.010 (b))

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is delineated more fully than in existing law. (Sec. 29.68.350 (a) (1) and Sec. 29.68.410)

The section of SB 113 on the civil tort liability of local governments is deleted (Sec. 29.73.010) and the existing law at AS 09.65.070 is retained.

#

CSSB 113 & CS HB 208 -- THE PROPOSED REVISED MUNICIPAL CODE*

Attachments Prepared by Direction of the Senate and House Local Government Committees Acting Jointly

- a) Comparison of CSSB 113 (CSHB 208) and Existing Municipal Law
- b) Comparison of CSSB 113 (CSHB 208) and SB 113 (HB 208)

Foreword and Synopsis of Attachments

The need for revision of the maze of local government laws of the state, most of them in the case of cities dating back to territorial days, has long been recognized by the legislature. By concurrent resolution adopted in 1963 the Third Legislature characterized the bulk of state law relating to cities as "disjointed" and not serving the best interest of the state. After a two-year revision effort conducted by the Local Affairs Agency, the Department of Law, and the Legislative Affairs Agency, a proposed revised code was introduced into the First Session of the Fourth Legislature and since then has been continually before the legislature in various modified forms of the original bill.

This year, following two years of preparation and six years of review and revision by legislative committees as well as by the Alaska Municipal League, the public through hearings, municipal and

* The provisions of CSSB 113 and CS HB 208, like those of SB 113 and HB 208, are identical; for convenience, the reference to the proposed municipal code is made as CSSB 113, which is the printed and distributed bill.

school officials, staffs of the legislative and executive branches of the government, and others, the presentation of CSSB 113 marks the first time the proposed code has reached the floor of either house. It does so after consideration by joint deliberation of the Senate and House Local Government Committees. Its passage in the current session offers the opportunity for the same legislature which enacts it to observe its practical operation and make any changes it may deem warranted during the second session.

This code is based on a proposed draft submitted by the Alaska Municipal League and prepared by a League committee comprised of municipal attorneys and administrators; the League draft in turn is based on earlier versions of the proposed code but reflects extensive updating and adjustment of provisions to emphasize a technical revision rather than large-scale substantive changes in existing areas of law, particularly in terms of relationships of boroughs and cities and local governing bodies and school boards.

Like any overall revision of titles of the Alaska Statutes, of course, the code incorporates changes from existing law both in form and in substance, albeit the substantive changes are relatively few considering the scope of the revision and the technical changes made. Among the most significant substantive changes appear to be the following. The code

- 1) provides for two classes of general law cities rather than four;

- 2) makes clear which provisions of the code apply to home rule local governments and which do not apply; a notable

example of the merit of this approach is the basic provision outlining school board and local assembly or council relationships; the proposed code retains the substance of the provisions (sec. 29.33.050) virtually as they appear under present law (AS 07.15.330) but does not apply them to home rule governments; the provisions under present law have been the source of much controversy and pending litigation as to their applicability to home rule governments;

3) authorizes cities and boroughs to permit, on vote of the people, exemptions from property taxes in addition to those exemptions now required by law or already permitted on an optional basis by law (general law cities and, arguably, home rule cities, do not have such authority under present law);

4) expressly authorizes use taxes as correlatives to sales taxes, which still continue to require voter approval; authorizes borough collection and refund of city sales taxes as well as city property taxes, the latter now being required to be collected by boroughs under present law;

5) establishes uniform fiscal years and practices for assessing, levying and collecting property taxes for all municipalities;

6) revises existing cumbersome special assessment laws and permits levy of special assessments against governmental units;

7) authorizes differential property tax zones within cities to allow for different services or different levels of services than are provided generally within a city;

8) provides for general law cities within general law boroughs to levy sales or use taxes upon the same tax sources as are levied upon by the borough;

9) expands eligibility for organization grants to second class cities newly incorporating or reclassifying to first class status and assuming school functions (outside boroughs);

10) provides that the terms of office of city, borough and school board officials are two years but that any local government may by ordinance choose otherwise and provide different terms not exceeding four years (three years for school boards, as under present law); terms of incumbents are not affected, however;

11) sets the date of the regular municipal election at the same time as the date of the state general election (i.e. on the Tuesday after the first Monday of November);

12) makes every local voter registered to vote in state elections eligible to vote in any municipal election, without being required also to meet separate municipal registration requirements; if not registered to vote with the state, he may vote in local elections upon meeting the local registration requirements if any;

13) adds garbage and solid waste and water pollution control powers to the existing categories of powers which second class boroughs may exercise in the borough area outside cities without special voter approval;

14) gives cities authority to adopt and enforce building, housing and related codes within the cities rather than conferring such authority upon a borough as part of its required areawide planning, platting and zoning powers, as has been the interpretation under present law;

15) requires no election in general law cities and boroughs to sell municipal revenue bonds unless the local government chooses by ordinance to require an election.

The fundamental change represented by the proposed code is technical in that it is a reorganized, clarified, and updated body of municipal law and a vastly improved framework within which to meet the legislative needs of municipalities as they may develop. Not the least of the proposed code's advantages is that it takes a body of law referred to probably as much or more than any other title in the Alaska Statutes and renders it far more intelligible for municipal officials as well as for the citizens whom it so directly affects.

The following summaries set forth in more detail comparisons of CSSB 113 and CSHB 208 and existing law and comparisons of CSSB 113 and CSHB 208 with the bills as first introduced.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

August 2, 1971

MEMORANDUM

TO : Senator John Rader, Senate Local Government Committee
Rep. Mike Miller, House Local Government Committee ✓

FROM : Greg Machyowsky, Legislative Counsel

SUBJECT: Incorporation of 1971 Session Laws into proposed
municipal code; other minor code amendments

A number of session laws enacted late in the first session of the Seventh Legislature amend existing Titles 7 and 29 and are not subsumed in the latest version of the proposed municipal code which was pending in Senate Rules at the close of the last session. Amendments to incorporate the substance of these session laws are attached; should they not be incorporated into the proposed code and the code is enacted, they will have been repealed from existing laws, since the proposed code repeals existing Titles 7 and 29.

I am attaching also an amendment which should be included with the technical amendments already made to the code. The amendment is minor and only preserves the consistency of distinctions maintained elsewhere in specific code sections as to which provisions bind home rule and general law municipalities under sec. 29.13.100 (pp. 7-8) of the proposed code.

GM:hg
Enclosures

Greg

April 27, 1971

MEMORANDUM

TO: Senator Merdes

FROM: Greg Machyowsky, Legislative Counsel

SUBJECT: Enclosed amendment to SCS CSHB 208 restoring regular municipal election date to first Tuesday of October; other comments on the proposed code

The proposed amendment sets the regular municipal election date as the first Tuesday of October in even-numbered years and the second Tuesday after the first Monday in November of odd-numbered years. It should be noted that the amendment does not change the present biennial interval of elections, every two years, of state elections. Unless a different interval is established by ordinance, the amendment would require that municipal elections be held on the first Tuesday of October every two years, followed by state elections the next year, unless a municipality passes by ordinance to provide for local elections on the first Tuesday of October every year, as under present law.

If biennial elections every two years in the off-year of state elections are intended, then the amendments on pages 31 and 32 of the amendment should read:

Page 31, line 23: Strike "Tuesday after the first Monday in November every even-numbered year" and substitute "first Tuesday of October every odd-numbered year"

Page 32, lines 24 - 25: Strike "Tuesday following the first Monday in November of even-numbered years" and substitute "first Tuesday of October of odd-numbered years"

The amendment as now drafted provides the application of the election date (i.e. first Tuesday of October) to home rule municipalities. The home rule cities of Kodiak and Valdez apparently have municipal election dates other than the first Tuesday of October or specifically November and the second Tuesday of October respectively. Thus, the amendment leaves them free to retain their present election dates.

April 27, 1971

The amendment does, however, require the standard October election date for a large number of smaller general law cities now having regular election dates other than that Tuesday. In most cases these dates are set in November (Barrow, Gambell, Girdwood, Goodnews Bay, Hydaburg, Kiana, Kodiak City, Long Island, Kwalina, Metlakatla, Moorvik, North Pole, Point Hope, Port Alexander, Port Lions, St. Mary's, Saxman), and a few others have dates at various other months, including January, March, April, May, June and December. All boroughs and most home rule cities (except for Kodiak and Valdez) now have the first Tuesday of October as the regular election date. If, to accommodate the smaller general law cities having different election dates, even the election date of the first Tuesday in October is not to be made mandatory, the phrase "first Tuesday of October" in the amendment should be enlarged to read "first Tuesday of October, unless otherwise provided by ordinance" and the amendment on page 124, line 14 should be omitted. (I'll have this substitute amendment prepared promptly upon hearing from you, if the intent is to permit both general law and home rule governments to vary the October election date by ordinance; that apparently is the option under present law, as noted above.)

By permitting home rule governments to set a date for election other than the first Tuesday of October (as the amendment does) or by adding language to permit general law communities to vary the date also, a possible problem can arise in that larger cities within boroughs may have separate election dates from the borough. The same possibility exists under present law, however. Borough election dates are set on the same day as the date of municipal elections in the largest first class or home rule city within the borough, or the first Tuesday of October if there is no such city within the borough; however, the borough is given express statutory authority to vary the election date by ordinance at its option (AS 07.30.020). Similarly, first and second class cities may vary their general election date, which is otherwise set at the first Tuesday of October (AS 29.10.045, AS 29.10.030 (cum supp.), AS 29.17.126). In third and fourth class cities the choice of election date is apparently left completely to local option. Under the present laws, then, it is permissible for a city to set one election date and the borough another, and both may be at a time other than the date of the state general election. As indicated, though, most of the larger cities, and all boroughs, rely on the first Tuesday of October as the regular election date.

Turning to other matters respecting the proposed code, I hope you will not mind my making a brief observation or two which might be of at least some limited usefulness in meeting possible objections to certain parts of this time. The objections to the committee section authorizing differential rates of property taxation on land, fixtures, and personal property might be diminished somewhat by limiting application to situations in which land is ripe for building development; this would be in accord with the apparent purpose of the provision to encourage the most productive land use,

April 27, 1971

and perhaps reduce apprehension that a category might be arbitrarily singled out for a heavy tax burden. Another alternative might be to limit the number of mills by which the rates might vary.

Narrowing down the number of taxing provisions binding on home rule governments, notably sec. 29.53.010 (which calls for taxation only as provided in the code chapter), might help meet an objection to code adoption without the differential tax rate section included within it. Home rule governments, being bound only by those provisions of the proposed new title which are made expressly binding, would then be free to require differential levy by home rule ordinance, assuming home rule constitutionally extends to taxing powers under the provisions of the state constitution (i.e. art. X, sec. 2, providing that the state "may delegate" taxing powers to boroughs and cities only).

Finally, for those being unsure of the code's effect, perhaps placing an extended effective date on its becoming law would be useful, to permit very ample time for detailed local study and possible amendment; for example, an effective date of July 1, 1972. Or am I getting desperate?

GM/dm

C-7

A M E N D M E N T

IN THE SENATE

TO: SENATE CS FOR HOUSE BILL NO. 208

Page 7, line 23: After ".020" insert "(b)"

Page 17, line 28: Strike "at the time of the general election" and substitute "on the first Tuesday of October"

Page 18, line 1: Strike ", unless provided otherwise by ordinance"

Page 22, line 29: Strike "Tuesday after the first Monday" and substitute "first Tuesday of October"

Page 23, line 1: Strike "in November"

Page 25, lines 28 - 29: Strike "every year on the Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 27, lines 12 - 13: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, line 8: Strike "municipal"

Page 29, line 9: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 29, lines 22 - 23: Strike "municipal election on the Tuesday following the first Monday in November" and substitute "election held on the first Tuesday of October"

Page 35, line 22: Strike "in home rule and general law municipalities"

Page 35, line 23: Strike "Tuesday after the first Monday in November" and substitute "first Tuesday of October"

Page 123, line 21: Strike "Tuesday following the first Monday in November" and substitute "first Tuesday of October"

Page 124, line 14: Reword the amendment comprising part of SC3 CSRB 208 and beginning at page 124, line 14 as follows: Page 124, line 14: After "title." add the following new matter: "The provisions of

this title establishing the regular municipal election date as the first Tuesday of October of even-numbered years, or at an interval of years provided by ordinance, shall be implemented by general law cities and boroughs not already having that election date by November 5, 1974 but not before November 6, 1973."

To illustrate: In the Kenai Peninsula Borough about \$160,000,000 of the total assessed value of \$280,000,000 is in petroleum industry developments. A 30 mill tax on the industrial property would produce \$4,800,000; the present 5 mill tax rate on all classes produces \$1,400,000. The classes of property included in the \$160,000,000 can be described as: property utilized in the exploration, development, production, storage, processing and transportation of non-renewable resources and including enterprises engaged exclusively in servicing these activities (such as well drilling).

A major state interest in the prospective effect of 29.53.025 (a) as to petroleum industry property taxation is illustrated as follows: a new liquefaction plant which may cost \$75,000,000 is in prospect. A 30 mill tax would produce \$2,250,000 a year or at the rate of 3 3/4 c (three and three-quarter) per acre at a consumption of 60 billion cu ft of gas a year (approx. amount for present plant). This would be more than twice the current rate of state royalty and production tax revenue. A thirty mill tax rate - or the prospect of it - would certainly affect the state's economic relations with the prospective development.

As a general policy the local government property tax should be applied in a normal manner for normal functions and purposes. It should not be open to manipulation to provide a special tax haven for most of the people at the expense of the remainder in areas specially favored with developments of unprecedented high value.

Neither should the tax authority be open to taxing a selected class or classes at the maximum of 30 mills to produce an unprecedented high level of revenue with other classes being taxed not at all.

If there is the prospect of the prospect of a rate at any level up to the 30 mill maximum without regard to requirements for normal local government purposes, it is the legislature that should make such surcharge levy on behalf of all the people to be allocated according to need and other equitable measurements.

CONCERNING THE MUNICIPAL CODE PROVISION 29.53.025: "(a) MUNICIPALITIES MAY EXCLUDE OR EXEMPT PROPERTY FROM TAXATION BY ORDINANCE RATIFIED BY THE VOTERS AT A REGULAR OR SPECIAL ELECTION."

We have a unique property tax situation that involves boroughs and cities, the unorganized borough and - most of all - the state. This is the extreme abnormality of huge capital intensive petroleum industry developments - unevenly distributed - that may in five years have a taxable value in excess of all the rest of the taxable real and personal property in the state.

Most of such developments create only negligible requirements for public services, except during the temporary exploration and development boom period. In remote and isolated areas such as the North Slope and Drift River no public community needs are created in the vicinity.

In some areas industry developments normally subject to ad valorem tax will represent 75% to 90% of all the taxable property. In the North Slope another gas liquefaction plant is anticipated. It may cost about \$2,50,000,000 and employ not more than 15 workers. No satellite suppliers are involved and negligible support services are needed.

In the areas of industry developments the assessed value of taxable property per capita may reach 12 to 14 times the average for present local tax jurisdictions.

The circumstances cited, when coupled with the authority of 29.53.025(a), would be an invitation to rig a property tax program to tax industrial property only. Under normal circumstances it is not possible to exclude a class or classes of property from taxation without there still being a major percentage of the people shouldering the burden of lost revenue by paying more on the remaining property classes. In such a situation excesses are self limiting.

But our circumstances are not normal. In an area in which a very large percentage of the taxable property is in industrial developments, other classes of property could be exempted, the tax rate could go up to 37.111 without hurting anyone else and yet secure more revenue than previously from all classes of property under a moderate rate.

PAGE 9, LINE 9: AFTER "SERVICES", REMOVE SEMI COLON.
SUBSTITUTE COMMA AND ADD THE FOLLOWING: BUT SHALL EXCLUDE
ALL AREAS SUCH AS MILITARY RESERVATIONS, CLACIFES, ICE-
CAPS, AND UNINHABITED AND UNUSED LANDS UNLESS SUCH AREAS
ARE NECESSARY OR DESTINATED FOR INTERESTED LOCAL GOVERNMENT.

*This is not New language; it is language which
inadvertently was dropped in the codification so should
be restored.*

PAGE 9, LINE 29: STRIKE "(6)" AND CONTINUE WITH MATERIAL
BEGINNING WITH "FOR" FOLLOWING THE SEMI-COLON AFTER
"EXERCISED" IN LINE 28.

*5 and 6 should be combined to facilitate restoration
of language omitted in codification, but which is needed.*

PAGE 10, LINE 2: AFTER "ONLY" REMOVE THE SEMI-COLON.
SUBSTITUTE A PERIOD AND ADD THE FOLLOWING: THOSE POWERS
WHICH CAN BE EXERCISED MORE FREELY, TENTLY AND ECONOMICALLY
ON AN APPLICABLE BASIS BY THE ORGANIZED TEACHER SHALL
BE ASSIGNED TO THE RESPECTED PORTION. IN DETERMINING
EFFICIENCY AND ECONOMY, THE PRESENT AND ANTICIPATED
INTEREST AND COST OF OPERATION, RESPONSIVENESS TO PUBLIC
NEEDS, ABILITY TO OPERATE OVER EXTENDED PERIODS,
THE POSSIBILITY OF INTERFERING WITH OTHER PORTIONS SHALL
BE CONSIDERED.

*can will in
the law book.*

PAGE 15, LINE 18: AFTER "CONCLUSION" STRIKE ALL WITH
IN LINES 19-20 *see attached explanatory material.*

PAGE 16, LINE 21: REDUCTIONAL "(b)" AS "(a)."

PAGE 17, LINE 7: AFTER "AND" STRIKE ALL WITH. *since it is no longer pertinent.*

PAGE 17, LINE 7: REDUCTIONAL "(c)" AS "(b): ~~_____~~

NOTE: IN REDUCTIONAL SUBSTITUTION "(a)", OF IN A

SUBSTITUTION ~~_____~~, ~~_____~~ AND ~~_____~~

statewide may be included

REDUCTIONAL SUBSTITUTIONS ~~_____~~ ~~_____~~ OF "THE BEST SWAY

OF THE VALUE OF AN OWNER OCCUPIED DWELLING." or unimproved land etc

Mike, please note....

Separate amendment prepared for Senate on this point:

Page 124, line 19. This section should be whited out if this is sent over to the Senate.

Rec'd this information from Greg M. 4/17/71

Kathe

*See page 121
line 24.
amendment?
P. 36
to be 20
amendment
P. 34
line 9
what if
amendment
inserted*

*To do.
Go thru not work
but want which
prohibit words by
the rule 700.
(page 7 about)*

*in the address of
the article provision
on page 121*

*change it on page 4
in the provision. which
should be inserted
on page 35 line 27*

*P. 107 - line 15
amendment inserted*

-
1. Proposition D
 2. SOC ADM limit - no combined gov/sch. Govt
 3. election rules
 4. tax ~~limit~~ for older citizens
for a ~~tax~~ ~~limit~~ ~~for~~ ~~older~~ ~~citizens~~
 5. City, election ~~from~~ ~~year~~
 6. Council/Authority ~~empowered~~ ~~to~~ ~~hold~~ ~~office~~
-

Cost analysis of Senator Hensley's amendment to municipal code. Would pay to all cities incorporated after January 1, 1968, ten dollars for each person who voted on the incorporation question.

The following 45 cities were incorporated from January 1, 1968 through January 1, 1972:

<u>City</u>	<u>Incorpo. Date</u>	<u>No. of Voters at Election</u>	<u>Amount</u>
Akiak	July 9, 1970	24	240
Akolmiut	August 26, 1969	97	970
Alakanuk	November 5, 1969	40	400
Aleut Community of St. Paul Island	June 29, 1971	70	700
Ambler	March 26, 1971	36	360
Anvik	October 6, 1969	32	320
Brevig Mission	October 6, 1969	24	240
Clarks Point	March 26, 1970	23	230
Deering	October 28, 1970	18	180
Diomedea	October 28, 1970	22	220
Eek	July 9, 1970	28	280
Elim	October 19, 1970	54	540
Fortuna Ledge	July 19, 1970	18	180
Galena	October 26, 1971	45	450
Golovin	March 26, 1971	27	270
Goodnews Bay	July 9, 1970	26	260
Grayling	June 9, 1969	30	300
*Holy Cross			
Huslia	June 9, 1969	25	250
Kaktovik	March 26, 1971	37	370

*Holy Cross information not available at present.

Kaltag	June 9, 1959	29	290
Kivalina	June 23, 1969	50	500
Kotlik	October 28, 1970	52	520
Koyuk	October 19, 1970	40	400
Lower Kalskag	August 27, 1969	29	290
Manokotak	October 19, 1970	69	690
Mekoryuk	September 24, 1969	69	690
Napakiaik	October 19, 1970	51	510
Napaskiak	October 27, 1971	51	510
Newhalen	October 26, 1971	29	290
Nikolai	July 9, 1970	15	150
Nondalton	May 18, 1971	36	360
Pilot Station	October 6, 1969	47	470
Russian Mission	October 28, 1970	29	290
Saint Michael	July 15, 1969	26	260
Savoonga	October 6, 1969	53	530
Shageluk	July 9, 1970	28	280
Shaktoolik	October 7, 1969	31	310
Shishmaref	July 15, 1969	52	520
Stebbins	July 15, 1969	52	520
Tenakee Springs	October 26, 1971	40	400
Togiak	June 23, 1969	60	600
Tuluksak	October 23, 1970	46	460
White Mountain	July 15, 1969	18	180
Whittier	July 15, 1969	56	<u>560</u>
	TOTAL		\$17,340

MEMO

TO: Joint Senate and House Local Government Committees

DATE: March 24, 1971

FROM: The Chairmen

SUBJECT: Summary of Proposed Amendments to Senate Bill No. 113

This is a summary of the substantive amendments to Senate Bill No. 113 proposed by the Chairmen of the Senate and House Local Government Committees.

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. (Sec. 29.08.040)

All municipalities which incorporate or reclassify after the effective date of this act, except municipalities which unify, will receive transitional grants of \$10 per registered voter. There will be a minimum grant of \$25,000 for municipalities having or assuming the school power. (Sec. 29.18.180)

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the State election, unless a locality provides by ordinance for different terms, which may not exceed four years in length. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the second Tuesday after the first Monday in November. (Sec. 29.23.040, Sec. 29.23.200, Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman may strike or reduce by veto. Also, two-thirds of the assembly, rather than three-fourths, can override a veto. (Sec. 29.23.170)

City council members may be elected by districts as well as at large. (Sec. 29.23.200)

Second class cities (our present fourth class cities) may submit an annual statement of income and expenditures to the Local Affairs Agency in place of an audit. The State payment of shared revenues is contingent on the submittal of these audits or statements. (Sec. 29.23.560)

Any person registered to vote, not only a person who votes, may contest an election. If he ~~succeeds~~ succeeds, the borough will pay for the recount; if he loses, he must bear the costs. (Sec. 29.28.050)

When a borough proposes (on its official map) to reserve lands for public use it must notify the persons on and adjacent to such lands. (Sec. 29.33.095)

The provisions of CS for HB 86, providing that home-rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010)

Second class boroughs may by ordinance exercise garbage and solid waste disposal in the area outside cities. (Sec. 29.48.020)

Cities will adopt and enforce building, housing, and related codes for the area inside cities and boroughs will exercise this function in the areas outside cities, unless a borough and a city agree to have the former exercise this function areawide. (Sec. 29.48.035)

General law cities may, as under existing law, exempt or exclude civic centers and boats from property tax, by ordinance. They may grant additional exemptions and exclusions by an ordinance ratified by the voters. (Sec. 29.53.025)

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050)

Boroughs and cities are given the option of replacing property taxes and/or sales and use taxes with an income tax not to exceed 10% of the State income tax. The State will collect the local income tax and remit it less the costs of collection. (Sec. 29.53.470)

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58.34J (d))

Boroughs and cities may assess the real property of governments (Federal, State and local) and private citizens for all or part of the costs of capital improvements which benefit such property. Payment of the assessment by governmental units is made a condition of receiving the benefit. In the case of private property, payment is a lien against the property. (Sec. 29.63.010)

A borough is expressly permitted to have special services or a higher level of services in different service areas so long as tax rates vary accordingly. This clarifies existing law in the light of a recent court ruling. (Sec. 29.63.090)

The existing law on the civil tort liability of local governments is restored. (Sec. 29.73.010)

MEMO

TO: Joint Senate and House Local Government Committees

FROM: The Chairmen

SUBJECT: Proposed Recommendations for Committee Substitute for Senate Bill No. 113

DATE:

- Page 2, line 16: Redraft (b) so as to provide that a second class borough can reclassify to third class borough (as in existing AS 07.35.020), and that when a third class borough reclassifies to first or second class it may vote to continue a combined assembly and school board. If they vote, however, to have a separate school board, a provision should be added to have the assembly call a later election for this, as under 29.16.100 in the proposed Code.
- Page 3, line 6: Strike "on" and substitute "before"
" " 10: Strike "if no" and substitute "unless"
- Page 5, line 24: After "initiative" insert "referendum"
" " 25: Strike "29.28.100" and substitute "29.28.060-110"
- Page 6, line 17: After "(14)" insert "29.53.010"
- Page 6, line 19: Add "(15) 29.68.010 (Annexation and Exclusion), 29.68.030-110 (Merge and Consolidation), 29.68.500-580 (Dissolution), 29.73.010 (Actionable Claims Against a Municipality), 29.73.020 (Eminent Domain), 29.73.030 (Adverse Possession), 29.73.040 (Taxation of Municipalities).
- Page 8, line 21: Add the substance of No.'s 1-3 of pages 2-3 of the Anchorage Borough administration packet, excluding the last sentence of point No. 3. Also, draft an express provision for "special services or a higher level of services, and correspondingly different rates of taxation in service areas."
- Page 9, line 24: After "petitions" insert "for election of initial officers"
- Page 11, line 6: Strike "First Tuesday of the following October" and substitute "next regular city election"
- Page 11, line 18: Strike "Special service districts and"
" " 18: " "district and"
" " 18: " "district or"
" " 19: " "former district"
" " 21: " "district or"
" " 21: " "district or"
" " 22: " "district or"
" " 22: Insert between "cities" and "service" the word "and"; strike "and special districts"
- Page 12, line 5: Strike "or special district"; insert "and" between "city" and "service"
" 11-12: Strike "or special district"; insert "and" between "city" and "service"
" 14: Strike "or special district"

- Page 15, line 8: Redraft to provide for borough election every two years at the same time as the state election, unless otherwise provided by ordinance. (Sec. 29.23.040 REGULAR TERM OF OFFICE)
- Page 15, line 28: Delete "two months" and substitute "month," and add "unless otherwise provided by ordinance."
- Page 19, line 23: Before "equal" insert "approximately" and after "equal" delete "voter representation" and substitute "population"
- NOTE: Borough school "zones" authorized on page 26, line 3.
- Page 22, line 6: After "ordinances" insert "except for school budget items"
" 8: Delete "three-fourths" and substitute "two-thirds"
- Page 22 Redraft so as to provide that borough, city, and school board elections in all municipalities, including home-rule, shall be at the same time as the state election; they shall be held every two years "unless otherwise provided by ordinance".
- Page 26, lines 4-5: Add a provision specifying the school board election date
- Page 28, line 4: Before the first sentence, insert the following new matter: "Adoption of a manager plan may be initiated either by petition or upon motion of the assembly or council."
- " " 12: After "of" strike "the" and substitute "a"; after "petition" add "or upon its motion"
- Page 30, line 18: After "audit" add "or in the case of second class cities an audit or statement of annual income and expenditures"
- " " 12-14: Add a provision that compliance with the provisions of Sec. 29.23.560 of this chapter is a prerequisite to receipt of state shared-revenue under AS 43.18, and the state shall withhold annual allocations under that chapter in the event of noncompliance until such time as the report requirements are complied with.
- NOTE: AS 14.12.040 is to be amended so as to conform with the optional two year sequence for municipal elections.
- Page 32, line 13: Elections may be contested by a registered voter
- Page 32, line 19: Redraft (d) so as to provide that the borough and city will pay the cost of an election runoff if the contestant succeeds.
" 22: Before "voter" insert "registered"
- NOTE: Redraft the definition of "voter" on page 115, line 17 as "registered voter": a voter registered with the state or, if not registered with state, meets whatever requirements are prescribed by the municipality as well as meeting all other requirements of the state constitution.
- Page 34, line 2: Strike "next preceding" and substitute "last"
- Page 36, line 23: After "repealed" add a new sentence: "A municipal charter may be amended as provided in the charter or by initiative and referendum as provided in 29.28.060-110"
- Page 42, lines 2-4: After "assembly" strike all matter through "membership" and substitute the following: "except that appointments of members from first class cities are selected from a list of recommendations submitted by the city council."
- Page 43, line 8: Strike "execution" and substitute "implementation"
- " " 12-13: After "commission" insert "the planning commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the assembly."
- Page 43, line 26: Insert "zoning" before "regulations"

- Page 46, line 18: After "submits a" strike all matter to "reservation" and substitute "subdivision plan for approval by the platting board."
- " " 21: After "use" insert "or otherwise develop the land included in the reservation"
- " " 22: Strike "begins" and substitute "files"
- " " 25: After "structure" insert "or otherwise develop the land"
- " " 27: Under 20.33.095 insert a requirement that notice be given to persons adjacent to or on reserved areas of the proposed adoption of an official map.
- Page 48, line 20: After "boundaries" insert "but may delegate by resolution or ordinance part or all of its functions to the borough."
- " " 17: After "by" insert "resolution or"
- Page 52, line 9: Before "owners" insert "municipality or"
- Page 55, lines 4-5: Provide for the orderly transfer of assets, liabilities, powers, duties, rights of a city or a service area upon the assumption of additional areawide powers, ~~for written notice of assumption~~, and for orderly transfer upon consultation of borough and city officials. Pattern this after the existing transitional provisions in AS 07.10.130-140.
- Page 58, lines 19-20: Insert "(5) Provide for garbage and solid waste disposal."
- Page 60, lines 11-12: Strike all matter after "(1b)" and substitute "Building, housing, and related codes, except that building code powers being exercised on an areawide basis prior to the effective date of this act may continue to be exercised on that basis, upon agreement of the city and the borough."
- " " 20: Refraft to clarify that a first class borough may exercise the power conferred by (a) of this section only after....a second class borough may exercise...
- Page 72: Draft a new section(3) to provide that general law municipalities may exempt or exclude boats and civic centers from property tax; they may grant other exemptions and exclusions "by an ordinance to be ratified by the voters"
- Page 73, line 12: After "valuation." add "including the combined levy of borough and city taxes within a city."
- Page 84, lines 13-15: After "foreclosure" add "The deeds shall be recorded in the recording district in which the property is located."
- Page 84, line 15: After "taxes" insert "and costs of foreclosures"
- Page 86, line 10: Before "cities" insert "Home-rule and first class"
- Page 86, lines 3-4: Add language to this effect: "Instead of property taxes or sales tax a borough or city may levy and collect an income tax equal to 10% of the state income tax payment. This is to be collected by the state and refunded to the local government, less costs of collection not in excess of 3% of the amount collected. The computations of the state's portion of revenue shall be final." Remove the existing prohibition of an income tax by home-rule and general law cities found in AS 10.25.355.
- Page 81, lines 13-16: Add the existing provisions of AS 20.25.355

Page 94, line 15

Add language or redraft so as to provide that bonded debt for the areas outside cities only or for service areas must be approved by the voters in those areas; when the full faith and credit of the entire borough is to be pledged to the bonded debt of those areas, it must be approved by the voters of the borough on the same day as those areas vote on incurring a bonded debt.

NOTE:

Incorporate CS for HB 86, which provides that municipalities, including home-rule, may change their names by an ordinance ratified by the voters.

Page 94, line 19:

Strike "state, borough, and city" and substitute "the property of a governmental unit."

" " 21:

After "capital improvements" add "In the event a governmental unit benefitted by the assessment refuses to pay the assessment, it shall be denied the benefit of the improvement."

Page 98, line 27:

After "if" insert "consistent with the purposes of Art. X of the state constitution"

Page 99, lines 1:

After "may" insert "exercise or"

" " 3:

After "each" insert "exercised or"

Page 113, line 15:

Strike "Sec. 29.73.010" and substitute the existing language of AS 09.65.070. "An action may be maintained against a unit of local government or public corporation of like character in its corporate character and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of the unit of local government."

Page 115, line 5

Where the phrase "newspaper of (or having) general circulation within the municipality" appears in the proposed Code, insert after "circulation" the word "distributed", e.g. page 103, lines 20-21.

" " 3:

Strike "seven" and substitute "five"

19 APR 71

Rep. Miller:

By mistake, the separate bill you wanted was drafted as an amendment to CSSB 113. Anyway, notice that it permits a local income tax on "municipal residents." I thought you also wanted to allow taxing the income of non-residents working in a municipality. (The phrase "income" as used in this amendment would include rental, dividend, capital gains, and proprietary (self-employed) incomes as well as business profits.)

Jim

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
URFAU, ALASKA 99501

April 19, 1971

MEMORANDUM

TO: Senator Merdes
FROM: Greg Machyowsky, Legislative Counsel
SUBJECT: Brief explanation of attached amendment to CSHB 208 am
(New Sec. 29.53.470 of bill)

This amendment authorizes cities and boroughs to levy municipal income taxes on residents' incomes, as an alternative to either property or sales taxes (the amendment would permit a local government levying only one of the two presently permitted taxes to levy the income tax). The local levy and collection is tied to the state income tax.

GM:dc

AMENDMENT

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208 (as amended)

Page 1, line 11, after " - 40.15.180" insert ", 43.20.290"

Page 8, line 16: After the last matter on the line insert: ", 29.53.470
(income tax)"

Page 94, between lines 11 and 12, add the following new matter:

Sec. 29.53.470. MUNICIPAL INCOME TAX. As an alternative to either the property tax or sales and use tax, a home rule or general law municipality may by ordinance levy an income tax upon the income of municipal residents not exceeding 10 per cent of the Alaska income tax obligations of the taxpayer. The municipal income tax is collected by the Department of Revenue and remitted to the municipality less the costs of collection, which may not exceed two per cent of the amount collected. Determinations of the Department of Revenue with respect to sufficiency of the taxpayer's return, amount of tax collected and costs of collection shall be final and not subject to appeal.

A M E N D M E N T

IN THE HOUSE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: CS FOR HOUSE BILL NO. 208 (CSSB 113)

Page 43, lines 24 - 29, page 44, lines 1 - 29 and page 45, lines 1 - 16, strike all matter and substitute the following:

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.

Page 58, line 13: Strike "shall"

Page 72, lines 17 - 19: Strike all matter beginning with "However"

Page 125, line 28: Add the following new matter:

* Sec. 6. AS 14.14 is amended by adding a new section to read:

Sec. 14.14.060. RELATIONSHIP BETWEEN BOROUGH SCHOOL DISTRICT AND BOROUGH. (a) The borough assembly may by ordinance require that all school money be deposited in a centralized treasury with all other borough money. The borough chairman shall have the custody of, invest and manage all money in the centralized treasury. However, the borough assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibility of a centralized treasury.

(b) When the borough school board by resolution consents, the borough assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

(c) The borough school board shall submit the school budget for the following school year to the borough assembly by April 1 for approval of the total amount. Within 30 days after receipt of the budget the assembly shall determine the total amount of money

to be made available from local sources for school purposes and shall furnish the school board with a statement of the sum to be made available. If the assembly does not, within 30 days, furnish the school board with a statement of the sum to be made available, the amount requested in the budget is automatically approved. By May 31, the assembly shall appropriate the amount to be made from local sources from money available for the purpose.

(d) The borough assembly shall determine the location of school buildings with due consideration to the recommendations of the borough school board.

(e) The borough school board is responsible for the design criteria of school buildings. Subject to the approval of the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly.

(f) The borough school board shall provide custodial services and routine maintenance for school buildings and shall appoint, compensate, and otherwise control personnel for these purposes. The borough assembly through the borough executive, shall provide for all major rehabilitation, all construction and major repair of school buildings. The recommendations of the school board shall be considered in carrying out the provisions of this section.

(g) State law relating to teacher salaries and tenure, to financial support, to supervision by the Department of Education and other general laws relating to schools, governs the exercise of the functions by the borough. The school board shall appoint, compensate, and otherwise control all school employees and administration officers in accordance with this title.

(h) School boards within the borough may determine their own policy separate from the borough for the purchase of supplies and equipment.

* Sec. 7. AS 14.14.065 is amended to read:

Sec. 14.14.065. RELATIONSHIP BETWEEN CITY SCHOOL DISTRICT AND CITY. The relationships between the school board of a city school district and the city council and executive are governed in the same manner as provided in sec. 60 of this chapter [AS 07.-15.330] for the school board of a borough school district and the borough assembly and executive.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

March 29, 1971

MEMORANDUM

TO: Joint Senate and House Local
Government Committee

FROM: The Chairmen

SUBJECT: Attached proposed amendments to
comprise Committee Substitute for
Senate Bill No. 113 (with revisions
following committee deliberations of
March 25, 1971)