

LEGISLATURE COMMITTEE FILES 1971-1972 8672  
783 FREE CONF. COMM. RE: MUNIC. CODE REVISION. HB 208/SB 113

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

- Page 44, line 27: after "school buildings." add "To the maximum extent consistent with education needs, the design of a school building shall provide for multiple use of the building for community purposes."
- Page 47, line 23: after "districts" add "and exceptions may be made in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments"
- Page 61, between lines 5 and 6, add the following new matter:  
"preservation, maintenance and protection of historic sites, buildings and monuments"
- Page 63, line 17: after "areawide;" add "exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;"
- Page 82, between lines 26 and 27 add:  
"(e) The borough assembly sits as a board of equalization for the purpose of hearing in the manner provided for first class cities any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of that number of members of the assembly over and above the number required for a quorum to transact business and is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings in first class cities as may be adopted by ordinance, including but not limited to quorum, and voting requirements."
- Page 121, line 23: before "municipality" insert "home rule or general law"
- Page 121, line 26: after "09.55.460." insert the following new matter: "In the case of a second class city, before exercising the power, the council shall request or petition the Local Affairs Agency for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Local Affairs Agency. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance."

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 121, line 27: before "municipality" insert "home rule or general law"

Page 123, between lines 18 and 19, add the following new matter:

"(10) "property" means real and personal property;

(11) "real property" means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;

(12) "personal property" means tangible property other than real property, such as merchandise and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats and vessels and aircraft;"

Renumber the following paragraphs accordingly.

Joint Senate-House Free Conference Committee Meeting - CSSB 113  
March 30, 1972

Members present:

Rep. M. Miller  
Rep. J. Harris

Sen. T. Miller

Others present:

Don Berry, Executive Director, Alaska Municipal League  
Sig Strandberg, Local Affairs Agency  
Hayden Kaden, Legislative Affairs  
Barry Jackson, Attorney  
Bill Berrier, Attorney, City and Borough of Juneau  
Bob Bettisworth, North Star Borough President  
Robert Dozier, State Assessor

Barry Jackson testified before the committee regarding apportionment. Detailed written testimony was submitted to the committee for the records.

Joint Senate-House Free Conference Committee Meeting - CSSB 113  
April 11, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. E. Naughton	Sen. C. Groh
Rep. J. Harris	Sen. E. Merdes

Others present:

Don Berry, Executive Director, Alaska Municipal League  
Sig Strandberg, Local Affairs Agency  
Tom Morehouse  
Rich Garnett, Assistant Attorney General  
Bill Berrier, Attorney, City and Borough of Juneau  
Roger Huntington, Local Affairs Agency

The committee asked Greg Machyowsky to revise the necessary sections of his amendment re. reapportionment making it clear that a city may appoint its council members to the assembly, provided that equal representation standards are met.

The wording of the ballot proposition re. unification was adopted by the committee. Sen. Merdes offered an amendment requiring that the unification question be placed on the ballot in each borough at the next regular borough election. On hand vote, the amendment failed.

The committee adopted or decided to give further consideration to the following suggestions made by Tom Morehouse:

1. The committee asked Greg Machyowsky to draft an amendment enabling borough assemblies by ordinance to allow the placement of the unification question on the ballot.
2. Page 24, line 20 - 22: The committee asked Greg Machyowsky to draft an amendment to have the borough chairman designate an administrative officer with assembly confirmation to act as chairman during a chairman's temporary absence or disability.
3. An amendment was adopted that a municipality would pay all costs and expenses incurred in a recount when the difference is 2% or less. The committee asked Greg Machyowsky to draw up the necessary language to incorporate it in the code.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113  
April 11, 1972

Page 111, line 1 - 17: delete, all matter and substitute the following: "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?"

YES [ ]                      NO [ ]"

Page 9, line 10: delete "encompasses a trading area with" and substitute "of the area includes the"

Page 42, line 25: delete "two-thirds"

Joint Senate-House Free Conference Committee Meeting - CSSB 113  
April 18, 1972

Members present:

Rep. M. Miller	Sen. T. Miller
Rep. J. Harris	Sen. C. Groh
Rep. E. Naughton	Sen. E. Merdes

Others present:

Sig Strandberg, Local Affairs Agency  
Bill Berrier, Attorney, City and Borough of Juneau  
Jim Bruce, Attorney, North Star Borough  
Robert Dozier, State Assessor  
Greg Machyowsky, Legislative Affairs  
Robert Dupere, Consultant for Lost River Mining Co.  
Ron Scheardown, Lost River Mining Co.  
Pete Walsh, Nome

→\* Jim Bruce suggested to the committee that page 64, line 4 of the code be amended re. the borough building code authority in relation to flood control. Senator Groh asked Mr. Bruce to draw up an amendment and to give it to Greg Machyowsky for further consideration at the next committee meeting.

Jim Bruce asked the committee to amend Page 82, lines 24 - 26, to include a hearing officer on the Board of Equalization. Greg Machyowsky will draft the amendment.

An amendment suggested by Bob Dozier, State Assessor, (#2 on page 70 of notebook) was adopted by the committee. Greg Machyowsky will draft the amendment for final approval at Thursdays meeting.

\* - *was Machyowsky commented on the amendment to AS 24.18.120(b) on page 76 of the committee notebook. The amendment attempts to establish one more executive while allowing each municipality to compose their assembly in their own manner.*

- *Jim Bruce:*  
*Organization of assemblies & representation should be considered as 2 distinct issues.*  
*Organization: The Legislature must establish the basic structural possibilities for organizing assemblies. By referendum, the electorate at large should then choose among the options.*

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113  
April 18, 1972

Page 83, line 2: after "facts" insert "which are"

Page 83, line 5: delete "three" and add "seven"

April 27, 1972

Members present:

Rep. M. Miller  
Rep. E. Naughton  
Rep. J. Harris

Sen. T. Miller  
Sen. E. Merdes  
Sen. C. Groh

Others present:

Don Berry, Executive Director, Alaska Municipal League  
Sig Strandberg, Local Affairs Agency  
Bill Berrier, Attorney, City and Borough of Juneau  
Rich Garnett, Assistant Attorney General

The committee decided to add water pollution control powers as an areawide power which could be acquired at the option of the borough, without the usual procedures for petition and vote. The committee decided to include the air pollution control laws of Title 18 on the same basis.

The committee approved the requested amendment relating to acquisition of mass transit powers areawide by boroughs and the acquisition of areawide animal control powers. With respect to mass transit powers, an additional provision was directed to be inserted calling for the Alaska Transportation Commission to decide the question of acquisition of the areawide powers by the borough if a dispute arises between a city and the borough as to acquisition. The provision would apply only in the case of boroughs not exercising mass transit powers areawide on the effective date of the code.

Senator Groh withdrew his amendment relating to exclusion of territory from boroughs.

The amendments approved for inclusion in the code relating to borough mayors in manager plan boroughs, senior citizen property tax relief, and technical amendments on election dates, delegation of powers by municipal boards and commissions and otherwise are to be drafted for approval as to form at the next meeting or otherwise are to be submitted to Rep. Miller and Sen. Miller for their review.

The committee decided to await the Senate Resources Committee proposals on pending development cities legislation before acting on inclusion of such legislation in the code. The committee declined to include food stamp purchases sales tax exemption provisions in the code.

The committee authorized preparation of a summary of changes represented by the free conference bill from bills approved in both Houses. The committee discussed expanding the summary to include a general summary of code provisions.

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

Page 94, lines 13 - 28: delete all matter and substitute the following new matter:

"ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.58.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money in a fiscal year to meet appropriations for that fiscal year in anticipation of the collection of taxes and estimated revenues for the fiscal year and may issue its revenue anticipation notes as evidence of the borrowing.

Sec. 29.58.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale. Revenue anticipation notes and notes issued to renew notes previously issued mature not later than the end of the fiscal year in which they are issued.

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

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

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

Sec. 29.58.050. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be a first charge and lien upon the revenues in anticipation of the

NEW AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE

collection of which these notes have been issued, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them."

Page 94, line 29: delete "29.58.040" and substitute "29.58.060"

Page 1, line 10: after "AS 29.05 - 29.95;" insert "AS 37.30"

Page 123, line 14: after "corporation" insert "and political sub-division,"

Page 94, line 29: delete "tax" and substitute "revenue"

Page 61, line 14: after "garbage" add "and solid waste"

Page 61, line 17: after "garbage" add "and solid waste"

Page 61, line 19: after "garbage" add "and solid waste"

Page 61, line 20: after "garbage" add "and solid waste"

Page 61, line 21: after "garbage" add "and solid waste"

Page 61, line 29: after "garbage" add "and solid waste"

Page 62, line 2: after "garbage" add "and solid waste"

Page 62, line 5: after "garbage" add "and solid waste"

Page 62, line 7: after "garbage" add "and solid waste"

Page 62, line 11: after "garbage" add "and solid waste"

Page 36, line 7: After "ELECTIONS." add the following new matter:  
"If in a municipal election no candidate receives in excess of forty per cent of the votes cast for his respective office, the assembly or council shall hold a runoff election within two weeks between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least 5 days before the election."

Page 35, line 28: after "who" insert "is qualified to vote in state elections and"; delete "of Alaska for"

Page 35, line 29: delete "one year and"

Page 36, line 1: delete "or meets"

Page 36, line 2: delete "registration requirements of the municipality if any"

Free Conference Committee Meeting - CSSB 113  
April 27, 1972  
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- Page 36, line 3: after "constitution." insert "Voter registration by the municipality may not be required."
- Page 124, line 4: after "who" insert "is qualified to vote in state elections and"
- Page 124, line 5: delete "of Alaska for one year and"
- Page 124, line 7: delete "or meets registration requirements of the municipality"
- Page 124, line 8: delete "if any"
- Page 35, lines 8 - 10: delete all matter through "requirements." and substitute "The municipality may not alter voter qualification requirements of this title."

Free Conference Committee Meeting - CSSB 113  
May 2, 1972

Members present:

Rep. M. Miller  
Rep. E. Naughton  
Rep. J. Harris

Sen. T. Miller  
Sen. E. Merdes  
Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency  
Bill Berrier, Attorney, City and Borough of Juneau  
Greg Machyowsky, Legislative Affairs  
Marilyn Miller, Alaska Municipal League

The committee approved the amendment conferring mass transit powers upon boroughs and providing for city objections to exclusive area-wide exercise of the powers to be resolved by the Alaska Transportation Commission. *in QC Committee notebook*

The committee approved the amendments conferring animal, water and air pollution powers upon boroughs. *p 8 notebook*

The committee approved the amendment establishing a borough mayor in manager plan boroughs but revised that part of the amendment withholding veto powers from the mayor and directed that the amendment accord such power. *in notebook*

The committee approved the amendment authorizing senior citizen property tax relief and authorized some revisions in subsection (h) to reflect committee intent that a local government may grant a broader senior citizen exemption than given in the amendment but must assume the additional cost of the exemption without state reimbursement.

The committee approved several technical amendments and authorized Rep. Miller and Sen. Miller to review and approve further technical amendments to adjust code provisions as necessary to reflect and clarify committee policy decisions.

The committee decided to await further Senate action on development cities before deciding whether to include such legislation in the code.

The committee chairman announced that the committee would meet further at the call of the chair.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE  
May 2, 1972

- Page 17, line 7: Before "first" insert "home rule or"
- Page 15, line 3: Delete "the effective date of this" and substitute "January 1, 1968"
- Page 15, line 4: Delete "Act"
- Page 19, line 1: After "pleasure" insert ", except that in boroughs having an appointed manager the borough mayor serves as presiding officer"
- Page 22, lines 24-26: After "(a)" strike all matter and substitute the following: "The administrative power of the borough is vested in an elected chairman or in an appointed manager. The executive power of the borough is vested in an elected chairman or, if the borough has adopted a manager plan, in an elected borough mayor who has the same functions as are conferred under sec. 240 of this chapter upon the mayor of a city having a manager plan."
- Page 22, line 26: After "chairman" insert "or mayor"
- Page 22, line 27: After "chairman's" insert "or borough mayor's"
- Page 23, line 8: After "is" insert "an elected borough mayor but no"
- Page 23, line 14: Delete "executive" and substitute "chairman or manager as the case may be"
- Page 23, line 16: Delete "executive" and substitute "chairman or mayor"
- Page 24, line 25: After "chairman" insert "or borough mayor"
- Page 24, line 29: After "chairman" insert "or borough mayor"
- Page 25, line 11: After "chairman" insert "or borough mayor"
- Page 60, line 7: After "disposal" insert "subject to sec. 33(a) of this chapter"
- Page 61, line 7: After "section" insert "or sec. 33(a) of this chapter"
- Page 63, between lines 21 and 22: Insert the following new matter: "(18) air pollution control as provided in AS 18.30"

Re-number following paragraph.

- Page 63, line 29: after "cities." insert the following new matter: "However, as to powers conferred under (a)(5), (17) and (18) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE  
May 2, 1972

additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power."

Page 54, line 9: after "question" insert:

", except as provided otherwise in AS 29.48.030 and AS 29.48.035(b)"

Page 61, between lines 11 and 12: insert the following new matter:  
"However, as to powers conferred under (a)(12) of this section, exercise of the powers areawide or in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. With respect only to boroughs which on the effective date of this Act are not exercising powers conferred under (a)(12) of this section on an areawide basis, objection which a city may raise to areawide exercise of the powers by a borough shall be reviewed by the Alaska Transportation Commission. The Commission shall decide whether or not areawide exercise of the powers is to be approved as in the public interest under the particular facts and circumstances at issue."

Page 75, between lines 27 and 28, insert the following new matter:  
"(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section."

Page 76, between lines 17 and 18, insert the following new matter:  
"(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than \$10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption; however, in the case of more than one party eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed \$10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570.

(f) No exemption may be granted except upon written application for the exemption upon a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE  
May 2, 1972

accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e) of this section affects similar exemptions from property taxes granted by municipalities on the effective date of this Act or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter. However, under this section only the amount of revenue lost to the municipality by reason of the exemption of (e) of this section may be reimbursed to the municipality by the state."

Free Conference Committee Meeting - CSSB 113  
May 17, 1972

File  
COPY

Members present:

Rep. M. Miller  
Rep. E. Naughton

Sen. T. Miller  
Sen. E. Merdes  
Sen. C. Groh

Others present:

Sig Strandberg, Local Affairs Agency  
Marilyn Miller, Alaska Municipal League  
Bill Berrier, Attorney, City and Borough of Juneau  
Sheila Gallagher, Attorney, Greater Anchorage Area Borough  
Greg Machyowsky, Legislative Affairs

A draft of the proposed Conference Committee Report summarizing changes in the proposed Free Conference Bill from the provisions of the bills before the committee was presented.

The committee decided to include in the conference report a provision that the report reflects legislative intent, where such intent is consistent with the pertinent code provision. In case of conflict, the code provision would be intended to prevail.

The committee decided to add a definition of "municipal elections" to the code to make clear that such elections include city, borough and school board elections. The committee decided to delete, as unnecessary, the definition of "general election" in the definitions chapter of the code.

The committee decided to delete the code amendment of AS 14.12.050 (Sec. 4 of CSSB 113), thus retaining present law for mandatory three year school terms (rather than setting terms at two years unless other terms up to four years are authorized by ordinance). Sec. 29.23.310 was accordingly directed to be amended, with the reference to "two" deleted and "three" substituted.

The committee approved a proposed amendment to Sec. 29.23.130 (d) making clear that when a newly adopted manager plan of government for a borough takes effect, the borough mayor then in office continues to serve his term as borough executive.

In response to a presentation made by Sheila Gallagher, Attorney, Greater Anchorage Area Borough, the committee amended the run-off elections provision of Sec. 29.28.040 to require that the run-off election be held two weeks from the date of certification of the initial election.

Technical amendments to recently adopted legislation incorporated in the code, i.e. development cities legislation and legislation relating to involvement of young people in local government, were noted and approved.

The committee requested that a specific check of all bills sent to the Governor, but not yet signed, be made for possible inclusion in the code, particularly the provisions of CSBE 290, intended to replace

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the provisions of Sec. 29.33.170 in the bills before the committee and otherwise to be drafted into the code. It was noted that the special Act incorporating the City of Lost River was not to be included in the code, inasmuch as that Act would be codified under the "Temporary and Special Acts" binder of the Alaska Statutes.

Several amendments clarifying code intent were noted and approved, among them: provisions requesting delegations to hear and decide cases before planning commissions, platting boards and boards of adjustment (Sec. 29.33.245); provision expressly that borough assumption of additional area-wide powers under Secs. 29.33.250 - 29.33.290 precludes city exercise of the powers assumed (Sec. 29.33.010(b)); provision that borough assumption of area-wide transportation powers under Sec. 29.48.030(b) confers exclusive authority to the borough for areawide exercise of the powers unless, as to boroughs not exercising the powers areawide at the time the code takes effect as law, the Alaska Transportation Commission decides otherwise; it was noted also that the power could be assumed through the usual method of assembly petition and public vote; adjustment of provisions of Sec. 29.48.030 (b) to make clear that air pollution control powers, consistent with the provision of AS 18.30, must be exercised by a borough on an areawide basis only.

The committee authorized further technical changes in the bill as necessary to coordinate code provisions, and review of the changes with respective committee chairmen.

Bill Berrier, Attorney of the City and Borough of Juneau, and Sheila Gallagher, Attorney of the Greater Anchorage Area Borough, volunteered to read the final copy of the bill being prepared and offer any technical suggestions which might be thought necessary.

The committee decided to amend the transition section (Sec. 3) of the code to provide for 180 days, rather than 90 days, as the time period, after the code takes effect as law for bringing local ordinances into conformity with code provisions.

The committee decided to meet on Friday, May 19, 1972, 3:30 p.m. to review a draft of the conference committee report summarizing changes made by the committee in the bills before it. It was indicated that the proposed conference bill and report would be ready for distribution on the following Monday. It was also noted that an additional report of the committee would be prepared to offer an overall comparison of the code, represented by the conference bill, with existing law.

AMENDMENTS ADOPTED BY THE FREE CONFERENCE COMMITTEE - CSSB 113  
May 17, 1972

Page 127, lines 20-21: Delete all matter.

Page 127, between lines 24 and 25: Insert the following new matter:  
"municipal election" means an election conducted by a municipality and includes but is not limited to elections for city council members, borough assembly members, school board and utility board members".

Page 129, lines 6-28: Delete all matter (and leave blank).  
renumber following sections

Page 29, line 9: Delete "two" and substitute "three"

Page 29, lines 10-12: After "office." delete all matter through  
"incumbent."

Page 129, line 3: Delete "90" and substitute "180"

*Amended copy  
of final report*

FREE CONFERENCE COMMITTEE REPORT  
ON  
SCS CSHB 208 am S AND CSHB 208 am  
(municipal code)

May 1972

*Basic references  
on points covered:* Mr. President  
Mr. Speaker

1. p. 59, lns 3-4  
p. 62, lns 2-5
  2. p. 125, lns 26-27  
p. 126, lns 1-7
  3. p. 83, lns. 27-29  
p. 84, lns. 1-5
  4. p. 55, lns. 22-25
  5. p. 137, lns 14-19  
thru p. 139, ln. 17
  6. p. 49, lns. 12-29  
p. 49a, lns 1-2  
p. 129, lns 7-16
  7. p. 139, lns 22-29  
thru p. 148, ln 26
- The Conference Committee, with powers of free conference, which has had SCS CSHB 208 am S and CSHB 208 am (municipal code) under consideration, recommends that the bills be replaced by FREE CONFERENCE CS FOR SENATE CS FOR HOUSE BILL NO. 208. The Conference bill incorporates the Senate amendments to the House bill, integrates substantively laws pertaining to local government enacted into law in 1971 and enacted or adopted in both houses during the current legislative session. These relate to historic preservation, eminent domain proceedings by fourth class cities, i.e. second class cities under the code, required assembly membership on boards of equalization, borrowing powers of third class boroughs, involvement of young persons in local government, and subdivisions (CSHB 290), and enabling legislation for development cities (CSSB 405 (Res.)). In addition, the Conference bill makes a number of limited substantive changes in the combined legislative product represented by SCS CSHB 208 am S and CSHB 208 am. A brief summary of the changes, keyed to chapter headings of the Conference bill, follows. This report is intended to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

ELECTIONS.

*Sec. 29.28.020(a)*  
*p. 35, lns 20-22.* Election Dates. The Conference bill broadens the discretion available to municipalities on the setting of election dates. As with the bills under consideration, the first Tuesday of October is set as the date of the regular municipal election, but the Conference bill authorizes a local government to set a different regular election date by ordinance if it chooses to do so.

Similarly, an annual regular election is set, with the option left to local governments to choose a different interval of years for holding regular elections. In the bills under consideration the same option is made available but an election every two years on the first Tuesday of October is prescribed unless different provision is made by ordinance.

1. *Sec. 29.23.040*  
*p. 17, lns 27-29*  
*p. 18, " 1-9* Terms of Elected Officials. Terms of <sup>1.</sup> assemblymen, <sup>2.</sup> councilmen, and <sup>3.</sup> city and <sup>4.</sup> borough mayors are set at three years, rather than two years as provided in the bills under consideration; different terms not exceeding four years may be set by ordinance. (Under present law terms of assemblymen and borough chairmen are the same as those of city councilmen and mayor, respectively, of the largest first class city within the borough, or otherwise three years; different terms not exceeding three years may also
2. *Sec. 29.23.200(c)*  
*p. 25, lns 27-29*  
*p. 26, lns 1-5*
3. *Sec. 29.23.250(b)*  
*p. 27, lns 4-8*
4. *29.23.130(c)*  
*p. 22, lns 28-29*  
*p. 23, lns 1-5*

be set by ordinance. City council and mayoralty terms in general law cities may vary from one to three years at local option.)

Q. 148, Lns. 27-29 Terms of incumbents holding office at the time the code takes effect, or in office when an ordinance setting different terms is adopted, are expressly preserved from alteration as a result of the three-year term code provision or local action setting different terms.

Sec. 27.28.040  
Q. 36, Lns. 3-10 Runoffs. The Conference bill provides for automatic runoffs between candidates in municipal elections when no candidate for the respective office receives more than 40 per cent of the vote cast for the office. At the same time, authority is retained in the code for a municipality at its option to require runoffs when a higher plurality is not obtained. Rather than requiring the costs of recount elections to be borne in all cases by the contestant unless the recount reverses the election result, the Conference bill provides for municipal assumption of the cost in cases in which the difference between the winning and losing vote on the result contested is less than two per cent, irrespective of whether or not the election result is reversed.

Sec. 29.25.050  
P. 36, Lns. 22-25  
Sec. 29.70.810  
Q. 128, Lns. 24-26  
Municipal Voters. Taking into account the United States Supreme Court's recent opinion on residency for voting purposes, the Conference bill removes the code requirement that a qualified voter for purposes of municipal elections must have been a resident of the state for one year; instead, the bill sets no definite period of required residency but declares that a voter who is eligible to vote in state elections is qualified as well to vote in municipal elections, if he has been a resident of the municipality for at least 30 days immediately preceding the election. (The municipal 30-day requirement is considered invariable under art. V, sec. 1 of the state constitution.)

Sec. 29.28.030  
P. 35, Lns. 25-29  
P. 36, Lns. 1-2 In addition, the Conference bill removes authority for municipal voter registration systems separate from state voter registration. Registration with the state to vote in state elections will also serve as registration for voting in local elections. In the bills under consideration either state registration or registration under a municipal system would suffice as municipal registration.

1. Sec. 29.28.230  
P. 42, Lns. 25-26  
2. Sec. 29.28.170  
P. 41, Lns. 22-26  
Other Provisions. In other Conference bill changes relating to elections, a simple majority rather than two-thirds majority is set as the vote needed to recall an elected municipal official, and with respect to local initiative or referendum petitions, the bill makes clear that, in the event a petition is rejected as insufficient, the petitioners have ten days after the date of rejection to supplement or amend the petition.

Sec. 29.28.030  
P. 35, Lns. 25-29  
P. 36, Lns. 1-2 Of the election provisions described above, only those relating to municipal voter eligibility and registration are made binding upon home rule municipalities, in both the bills under consideration and the Conference bill.

#### MUNICIPAL ASSESSMENT AND TAXATION.

Sec. 29.53.140  
P. 84, Lns. 16-15  
Property Tax Assessment. The Conference bill expressly confers the right to trial de novo in the superior court, with jury trial if demanded, of the decision of a borough or city board of equalization on a taxpayer's property assessment. (It thus incorporates the substance of HB 332 and SB 159 pending before the legislature which is not already encompassed in the code.)

1. Sec. 29.53.060 (a)  
p. 84, Lns 11-18

2. Sec. 29.53.095  
p. 81, Lns 22-29

3. Sec. 29.53.040  
p. 79, Lns 23-29  
p. 80, Ln. 1

4. Sec. 29.53.140(d)  
p. 84, Lns 12-14

5. Sec. 29.70.810 (13)(c)  
p. 128, Lns 2-5 &  
Lns 11-13

Sec. 29.53.020 (a)  
p. 75, Lns 20 thru  
77, Ln. 3

Sec. 29.53.025 (a)  
p. 77, Lns 4-7

Sec. 29.13.100 (21)  
p. 8, Lns 16-17

Sec. 29.33.290 (c)  
p. 53, Lns 9-16

Sec. 29.33.245  
p. 52, Lns 2-10

The bill also makes limited revisions in the definition of full and true value for tax assessment purposes, requires that reevaluations of property, whether of specific classifications or in specific areas of the municipality, be made only in accordance with a systematic plan of reevaluation for all taxable property within the municipality, permits mobile homes to be classified as personal rather than real property at local option, and increases from three to seven the number of days allowed for the municipal board of equalization to certify its actions on tax assessment appeals to the assessor. A definition of real property and personal property is added to the code under general provisions (ch. 78), primarily for purposes of the assessment and taxation chapter.

Exemptions. The Conference bill incorporates the substance of CS HB 296, exempting from city and borough real property taxation the place of abode of residents 65 years age or over who have an annual net taxable income of less than \$10,000. Broader senior citizen exemptions granted by local ordinance are not superseded by the provision, but state reimbursement authorized to a local government under the provisions is limited to the amount of tax revenues lost to the local government because of the state-conferred local tax exemption only. As incorporated in the Conference bill, the exemption provided makes clear that mobile homes occupied as a place of abode are within the exemption, whether classified as real or personal property under municipal tax ordinances.

Modified somewhat is a provision in the bills under consideration that municipalities may by ordinance approved by the voters exclude or exempt property from taxation in addition to exclusions or exemptions authorized or permitted in the code. The provision as set out in the Conference bill expressly authorizes partial as well as full exemptions in such cases and limits the exclusions or exemptions to residential property.

Like the bills under consideration, provisions of the chapter relating to property taxation are, with a few exceptions, made binding upon home rule as well as general law cities and boroughs.

#### AREAWIDE BOROUGH POWERS AND DUTIES.

The Conference bill modifies the provisions of present law as well as the bills under consideration as to the vote required on addition of an areawide power by a home rule or general law borough. Rather than overall majority approval of addition of a power areawide, two separate majorities are required: (1) a majority of votes cast in the home rule and first class cities of the borough, taken as a voting unit; and (2) a majority of votes cast in the remaining borough area.

The Conference bill clarifies authority of planning commissions, platting boards, and boards of adjustment in general law cities and boroughs to delegate part or all of their functions to hear and decide cases. Authority is retained from the bills under consideration to delegate to one or more members of the board or commission or to hearing officers, with required review by the full commission or board upon appeal of a decision, these hearing and decision-making functions. In addition, the Conference bill authorizes the governing body to delegate to separate boards or commissions such functions by ordinance or in any other manner authorized by ordinance. The required review by the full commission or board in case of appeal continues to apply under any delegation.

P. 131, Lns. 28-37  
P. 132, Ln. 1  
With respect to design of school buildings, the Conference bill calls for consideration in design of multiple uses for community purposes.

#### MUNICIPAL OFFICERS AND EMPLOYEES.

Sec 29.23.020  
P. 134, line 1  
P. 135, line 21  
and  
P. 137, Lns 7-14  
Borough Assembly Composition and Apportionment. In anticipation of possible legislative action to amend the state constitution or of a state supreme court decision to invalidate existing provisions of law which apportion borough assemblies between city and outside-city assemblymen and require use of the weighted vote under that apportionment, the Conference bill inserts a conditional section binding upon home rule and general law boroughs and having the following features:

(1) a borough assembly may provide by ordinance (or home rule borough charter may provide) for a number of assemblymen and assembly apportionment in any manner consistent with the equal representation standards of the federal constitution;

(2) the proposed borough apportionment ordinances must be submitted for separate voter approval by two majorities: (a) a majority of votes cast in all first class and home rule cities, and (b) a majority of votes cast in the borough area outside those cities.

(3) within six months of the effective date of the section and thereafter within six months of each federal decennial census, as well as at any other time when equal representation standards may no longer be met, the assembly must make a finding as to compliance with the equal representation apportionment standards and, if indicated, prepare and submit to the voters in the manner described in (2) an ordinance revising the apportionment and, if the assembly chooses, the number of members composing the assembly;

(4) the Local Affairs Agency is directed to make a reapportionment when a proposed reapportionment ordinance is not approved by the voters;

(5) the right to judicial review of both assembly and agency determinations is expressly provided for under the section.

The apportionment section is to take effect only upon condition that the provisions of art. X, sec. 4 of the state constitution relating to assembly representation are compatibly amended or that those provisions as they relate to city representation on the borough assembly are held to be in violation of the federal constitution by the state supreme court.

While the section sets out specific times at which the assembly is required to examine its apportionment, the section is intended as well to permit an assembly at its option to propose a change in assembly composition or apportionment, notwithstanding that existing apportionment may satisfy equal protection standards. All changes in assembly composition and apportionment, whether by ordinance or Local Affairs Agency action under the section, are effective beginning with the next regular assembly election. In the event the conditions upon which the provisional section is to become effective do not occur, the code retains the present provisions of borough law relating to assembly composition and apportionment.

1/2  
Sec 29.23.13c(a)  
(a) v. (b)  
Borough and City Executive. In boroughs which adopt a manager plan, the code establishes an office of borough mayor, paralleling in concept the retention in the code and present law of the

Sec. 29.23.130(h)  
2. (h)  
p. 22, lns. 27  
Sec. 29.23.160 to  
170  
p. 24, lns. 25 thru  
p. 25, lns. 9

office of mayor in cities which have adopted city manager plans. The borough mayor's official functions are the same as those of the mayor as city chief executive in manager cities, i.e. presiding at governing body meetings, serving as municipal ceremonial head, and signing official documents. Under present law, manager plan boroughs have no elected executive office, and the office of manager combines the executive and administrative roles. 2. Like present borough chairmen in boroughs which have not adopted a manager plan, the borough mayor is elected area-wide, and has no vote on the assembly but may veto most assembly actions. 3. Unlike the borough chairman, who serves as both executive and chief administrator of the borough, the borough mayor is designated as executive of the borough, with the functions noted above, but functions as chief administrator remain with the manager.

3 Sec. 29.23.130(a)  
p. 22, lns. 22-26  
Sec. 29.23.130(a)  
p. 22, lns. 22-26

While preserving the differences in functions between borough chairmen in non-manager plan boroughs and borough mayors in manager plan boroughs, the Conference bill substitutes the title "borough mayor" for "borough chairman" in non-manager plan boroughs as well as employing the same title to describe the newly established office for manager plan boroughs. Use of the identical term in both cases is intended to avoid confusion in reference to borough executives.

Sec. 29.23.240  
p. 26, lns. 24-25

In manager plan cities, as with manager plan boroughs, the Conference bill denotes the mayor as chief executive and the manager as chief administrator; the bills under consideration designate the manager as both, while assigning functions to preside at council meetings, serve as ceremonial head, and sign documents, to the mayor.

1. Sec. 29.48.150(a)  
p. 68, lns. 3-4

It should be noted the designation of the mayor as executive and the manager as administrator, as with the borough mayor and manager, is not intended to confer powers upon the respective officials independently of those otherwise expressly conferred in the bill. Moreover, a number of code sections have required amendment, with the term "administrator" or "chief administrator" being added to, or substituted for, the term "executive". These changes are intended in all cases but one to be technical changes only, reflecting the separation in roles of executive and chief administrator which the Conference bill formalizes in manager plan cities and boroughs. 4. The exception concerns sec. 29.48.150 in which the power to introduce ordinances, conferred in the bills under consideration to assembly or council members or committees and the municipal executive, is broadened to include the borough or city chief administrator. The addition has the effect of preserving the authority of borough and city managers, as the "municipal executive" under existing law, to introduce ordinances and extends the authority as well to the elected mayors in manager plan boroughs and cities.

Sec. 29.23.150  
p. 24, lns. 19-24

Another modification of the Conference bill authorizes the borough executive (mayor) with assembly approval to designate a person to serve as mayor in case of his temporary absence or disability. Current law and the bills under consideration require the assembly presiding officer (or his designee, under current law) to act as temporary chairman in all cases.

The changes noted above relating to the city and borough executive and administrator are binding on general law, but not home rule, municipalities.

ALTERATION OF BOUNDARIES.

Sec. 29.65.260  
(a)  
p. 117, lns 27  
time 1115, ln 10

In relation to unification of a borough and cities within it as a single unit of home rule local government, the Conference bill rewords the question submitted to voters at the first election to determine whether a unification commission should be elected to prepare a proposed unification charter for voter approval at a second election. Rather than submit the question, as under current law and the bills under consideration, "Shall the .....Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and a majority vote from the remaining area composed of all first class and home rule cities of the borough?", the Conference bill poses to the voters the simpler and more limited question, "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the ..... Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?".

The revised wording of the ballot question for the first election reflects the conclusion that as a practical matter the question of unification is decided at the time of the second election, i.e. the election on the charter prepared by the elected unification charter commission. The preference poll, authorized under current law and the bills under consideration, as to the name of the unified government should one be formed is omitted as a ballot question in the Conference bill.

Sec. 29.65.250  
(c)  
p. 114, lns 20-24

The Conference bill, in addition, authorizes an assembly resolution as an alternative means to a petition for placing the question of formation of a unification charter commission on the ballot.

Sec. 29.68.010(c)  
p. 112, lns. 1-3

The Conference bill expressly provides that boundary changes made by the state Local Boundary Commission under its direct constitutional authority (art. X, sec. 12 of the state constitution) prevail over boundary changes initiated by local action. Both under current statutes and the bills under consideration this principle seems presumed but is not expressly stated.

MUNICIPAL DEBT.

Sec. 29.58.315  
p. 104, lns. 3-8

The Conference bill specifies the municipal governing body or its designee in both home rule and general law municipalities as the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range municipal financial planning which leads to the sale of bonds. The provision does not affect the governing body's authority to contract, or to delegate its authority to contract, the services of other professional consultants.

Sec. 29.58.010  
.140  
p. 97, ln 1-time  
p. 100, ln. 10

Other provisions of the Conference bill broaden code provisions on issuance of tax anticipation notes to include notes issued in anticipation of revenues generally (the power to borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year being specifically conferred upon political subdivisions under art. IX, sec. 9 of the state constitution). The specific revenue anticipation note authority conferred in the bill derives from SB 316 currently before the legislature.

INCORPORATION.

Boroughs. The Conference bill eliminates the requirement that an area proposed for borough incorporation must encompass a trading area. The reference was not considered clear as to meaning or necessary in the context of other broad standards of incorporation set out in the code.

Sec. 29.18.030 (3)  
p. 15-19  
(compare present AS 07.10.030 (3))

POWERS APPLICABLE TO ALL MUNICIPALITIES.

The Conference bill adds several powers to those which general law cities and boroughs are authorized to exercise under this chapter. Like most other powers listed in the chapter, the powers are designated in general terms; a liberal construction is subsequently provided for (in accordance with art. X, sec. 1 of the state constitution). Specifically, animal control and water pollution control powers are added. Also added are consumer protection powers, intended to include regulatory as well as other methods of consumer protection services, without restricting powers to regulate particular activities elsewhere in the code, particularly at sec. 35 of the chapter.

1. Sec. 29.48.310  
p. 73, lns 23-25  
2. Sec. 29.48.035 (a)  
p. 61, ln. 15  
3. Sec. 29.48.035 (a)(1)  
p. 62, ln. 9  
Sec. 29.48.020 (6)  
p. 58, ln. 5  
4. Sec. 29.48.030 (a)(2)  
p. 59, ln. 5

Unlike consumer protection and most other powers enumerated in the chapter as to boroughs, the animal control and water pollution control powers are added to a limited category of powers which under existing law may be exercised in the borough area outside cities, or areawide, at the option of the borough and without the usual prerequisites of petition and voter approval for exercise of the power. As under existing law, city exercise of the powers once they are exercised areawide by the borough is preempted unless the borough ordinance assuming the powers provides otherwise or subsequently the borough ceases to exercise the power. Dog control powers are presently authorized areawide and in the borough areas outside cities in the manner described; the Conference bill expands the present authority to include animal control generally. As to water pollution control, the Conference Committee considered authorizing water pollution control facilities and services on an areawide basis (under sec. 29.48.030) but decided exercise of such authority by the borough should be subject to prior petition and vote of the people, in the usual manner for acquisition of areawide powers; the water pollution authority granted, accordingly, is only regulatory in nature. The grant of water pollution authority to second class boroughs in the area outside cities encompasses both regulatory functions and authority to provide public facilities and services.

Sec. 29.48.035 (b)  
p. 62, lns. 13-29  
Sec. 29.48.020 (2)(c)  
p. 58, lns 27-35  
p. 58 ln 5  
# compare present AS 07 15 360  
Sec. 29.48.020 (4)  
p. 58, ln. 5  
Sec. 29.48.030 (1)  
p. 59, lns. 6-23

With respect to existing authority in the bills under consideration for municipal transportation system facilities and services, the Conference bill adds that power to the limited category of powers which may be exercised areawide or in the borough area outside cities at the option of the borough and makes areawide exercise of the power exclusive of city exercise within the borough. However, with respect to general law boroughs which are not exercising the power on the effective date of the code, a city objecting to assumption of the power areawide is entitled to review of the question by the Alaska Transportation Commission, and the commission is to decide in the particular case whether or not borough exercise of the power areawide is in the public interest. Should the commission decide in the negative, city exercise within the city and borough exercise in the area outside cities would be authorized, subject to areawide assumption by the borough of the power in the usual manner of petition

Sec. 29.48.050  
p. 63, line 29  
thru p. 64, line 19

and areawide vote. The power conferred to provide transportation systems and facilities is in addition to power conferred elsewhere in the code for municipal franchising of bus transportation systems.

Sec. 29.48.033

p. 59, line 23 thru  
p. 61, line 6

Note also:

Sec. 29.48.030(i)

p. 59, lines 6-12

The bills under consideration incorporate provisions of existing law which give some detail on municipal powers relating to establishment, maintenance and operation of garbage collection and disposal systems. The Conference bill retains those provisions and adds solid waste collection and disposal to their terms. Garbage and solid waste collection and disposal are viewed as largely interrelated activities.

Sec. 29.48.035(c)

p. 62, line 24 thru

p. 63, line 11

note p. 63, lines 2-3

The Conference bill makes special provision on areawide exercise of building, housing or related code powers, but only with respect to flood control, so as to preserve eligibility for federal flood control aid in those boroughs presently exercising areawide flood control powers.

pg. 128, line 1 thru

pg. 128, line 8

In code transitional provisions, the Conference bill increases from 90 to 180 days after the effective date of the code the time period assigned to local governments for conforming local ordinances as necessary with the code, except for the provisions of AS 29.28.040 relating to runoff elections in general law cities and boroughs; these supersede conflicting provisions of local ordinances at the time the code takes effect as law.

In addition to the substantive changes summarized above, the Conference bill incorporates technical changes to coordinate the substantive changes made with other code sections affected, to insure that existing provisions of law not substantively changed by the code are retained, and otherwise to refine wording of code provisions.

Senate Members

Terry Miller  
Senator Terry Miller, Chmn.

Edward A. Merdes  
Senator Edward A. Merdes

Clifford J. Groh  
Senator Clifford Groh

House Members

Mike Miller  
Representative Mike Miller, Chmn.

Edward Naughton  
Representative Edward Naughton

Jess Harris  
Representative Jess Harris

FCC Notebook

Volume 1

FCC Bill, Report

& Supplemental

Report

VOLUME 1

JOINT SENATE AND HOUSE  
FREE CONFERENCE COMMITTEE MEETINGS

(CS for SENATE CS for CS for HOUSE BILL NO. 208)

ALASKA LOCAL GOVERNMENT

ACE 585002

" FREE CONFERENCE COMMITTEE REPORT  
ON  
SCS CSHB 208 am S AND CSHB 208 am  
(municipal code)

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May 22, 1972

Mr. President  
Mr. Speaker

The Conference Committee, with powers of free conference, which has had SCS CSHB 208 am S and CSHB 208 am (municipal code) under consideration, recommends that the bills be replaced by FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208. The Conference bill incorporates the Senate amendments to the House bill, integrates substantively laws pertaining to local government enacted into law in 1971 and enacted or adopted in both houses during the current legislative session. These relate to historic preservation, eminent domain proceedings by fourth class cities, i.e. second class cities under the code, required assembly membership on boards of equalization, borrowing powers of third class boroughs, involvement of young persons in local government, land subdivisions (CSHB 290), and enabling legislation for development cities (CSSB 405 (Res.)). In addition, the Conference bill makes a number of limited substantive changes in the combined legislative product represented by SCS CSHB 208 am S and CSHB 208 am. A brief summary of the changes, keyed to chapter headings of the Conference bill, follows. This report is intended to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

#### ELECTIONS.

Election Dates. The Conference bill broadens the discretion available to municipalities on the setting of election dates. As with the bills under consideration, the first Tuesday of October is set as the date of the regular municipal election, but the Conference bill authorizes a local government to set a different regular election date by ordinance if it chooses to do so.

Similarly, an annual regular election is set, with the option left to local governments to choose a different interval of years for holding regular elections. In the bills under consideration the same option is made available but an election every two years on the first Tuesday of October is prescribed unless different provision is made by ordinance.

Terms of Elected Officials. Terms of assemblymen, councilmen, and city and borough mayors are set at three years, rather than two years as provided in the bills under consideration; different terms not exceeding four years may be set by ordinance. (Under present law terms of assemblymen and borough chairmen are the same as those of city councilmen and mayor, respectively, of the largest first class city within the borough, or otherwise three years; different terms not exceeding three years may also be set by ordinance. City council and mayoralty terms in general law cities may vary from one to three years at local option.)

Terms of incumbents holding office at the time the code takes effect, or in office when an ordinance setting different terms is adopted, are expressly preserved from alteration as a result of the three-year term code provision or local action setting different terms.

Runoffs. The Conference bill provides for automatic runoffs between candidates in municipal elections when no candidate for the respective office receives more than 40 per cent of the vote cast for the office. At the same time, authority is retained in the code for a municipality at its option to require runoffs when a higher plurality is not obtained. Rather than requiring the costs of recount elections to be borne in all cases by the contestant unless the recount reverses the election result, the Conference bill provides for municipal assumption of the cost in cases in which the difference between the winning and losing vote on the result contested is less than two per cent, irrespective of whether or not the election result is reversed.

Municipal Voters. Taking into account the United States Supreme Court's recent opinion on residency for voting purposes, the Conference bill removes the code requirement that a qualified voter for purposes of municipal elections must have been a resident of the state for one year; instead, the bill sets no definite period of required residency but declares that a voter who is eligible to vote in state elections is qualified as well to vote in municipal elections, if he has been a resident of the municipality for at least 30 days immediately preceding the election. (The municipal 30-day requirement is considered invariable under art. V, sec. 1 of the state constitution.)

In addition, the Conference bill removes authority for municipal voter registration systems separate from state voter registration. Registration with the state to vote in state elections will also serve as registration for voting in local elections. In the bills under consideration either state registration or registration under a municipal system would suffice as municipal registration.

Other Provisions. In other Conference bill changes relating to elections, a simple majority rather than two-thirds majority is set as the vote needed to recall an elected municipal official, and with respect to local initiative or referendum petitions, the bill makes clear that, in the event a petition is rejected as insufficient, the petitioners have ten days after the date of rejection to supplement or amend the petition.

Of the election provisions described above, only those relating to municipal voter eligibility and registration are made binding upon home rule municipalities, in both the bills under consideration and the Conference bill.

#### MUNICIPAL ASSESSMENT AND TAXATION.

Property Tax Assessment. The Conference bill expressly confers the right to trial de novo in the superior court, with jury trial if demanded, of the decision of a borough or city board of equalization on a taxpayer's property assessment. (It thus incorporates the substance of HB 332 and SB 159 pending before the legislature which is not already encompassed in the code.)

The bill also makes limited revisions in the definition of full and true value for tax assessment purposes, requires that revaluations of property, whether of specific classifications or in specific areas of the municipality, be made only in accordance with a systematic plan of revaluation for all taxable property within the municipality, permits mobile homes to be classified as personal rather than real property at local option, and increases from three to seven the number of days allowed for the municipal board of equalization to certify its actions on tax assessment appeals to the assessor. A definition of real property and personal property is added to the code under general provisions (ch. 78), primarily for purposes of the assessment and taxation chapter.

Exemptions. The Conference bill incorporates the substance of CSHB 296, exempting from city and borough real property taxation the place of abode of residents 65 years age or over who have an annual net taxable income of less than \$10,000. Broader senior citizen exemptions granted by local ordinance are not superseded by the provision, but state reimbursement authorized to a local government under the provisions is limited to the amount of tax revenues lost to the local government because of the state-conferred local tax exemption only. As incorporated in the Conference bill, the exemption provided makes clear that mobile homes occupied as a place of abode are within the exemption, whether classified as real or personal property under municipal tax ordinances.

Modified somewhat is a provision in the bills under consideration that municipalities may by ordinance approved by the voters exclude or exempt property from taxation in addition to exclusions or exemptions authorized or permitted in the code. The provision as set out in the Conference bill expressly authorizes partial as well as full exemptions in such cases and limits the exclusions or exemptions to residential property.

Like the bills under consideration, provisions of the chapter relating to property taxation are, with a few exceptions, made binding upon home rule as well as general law cities and boroughs

#### AREAWIDE BOROUGH POWERS AND DUTIES.

The Conference bill modifies the provisions of present law on addition of an areawide power by a home rule or general law borough. Rather than overall majority approval of addition of a power areawide, two separate majorities are required: (1) a majority of votes cast in the home rule and first class cities of the borough, taken as a voting unit; and (2) a majority of votes cast in the remaining borough area.

The Conference bill clarifies authority of planning commissions, platting boards, and boards of adjustment in general law cities and boroughs to delegate part or all of their functions to hear and decide cases. Authority is retained from the bills under consideration to delegate to one or more members of the board or commission or to hearing officers, with required review by the full commission or board upon appeal of a decision, these hearing and decision-making functions. In addition, the Conference bill authorizes the governing body to delegate to separate

boards or commissions such functions by ordinance or in any other manner authorized by ordinance. The required review by the full commission or board in case of appeal continues to apply under any delegation.

With respect to design of school buildings, the Conference bill calls for consideration in design of multiple uses for community purposes.

#### MUNICIPAL OFFICERS AND EMPLOYEES.

Borough Assembly Composition and Apportionment. In anticipation of possible legislative action to amend the state constitution or of a state supreme court decision to invalidate existing provisions of law which apportion borough assemblies between city and outside-city assemblymen and require use of the weighted vote under that apportionment, the Conference bill inserts a conditional section binding upon home rule and general law boroughs and having the following features:

(1) a borough assembly may provide by ordinance (or home rule borough charter may provide) for a number of assemblymen and assembly apportionment in any manner consistent with the equal representation standards of the federal constitution;

(2) the proposed borough apportionment ordinances must be submitted for separate voter approval by two majorities: (a) a majority of votes cast in all first class and home rule cities, and (b) a majority of votes cast in the borough area outside those cities.

(3) within six months of the effective date of the section and thereafter within six months of each federal decennial census, as well as at any other time when equal representation standards may no longer be met, the assembly must make a finding as to compliance with the equal representation apportionment standards and, if indicated, prepare and submit to the voters in the manner described in (2) an ordinance revising the apportionment and, if the assembly chooses, the number of members composing the assembly;

(4) the Local Affairs Agency is directed to make a reapportionment when a proposed reapportionment ordinance is not approved by the voters;

(5) the right to judicial review of both assembly and agency determinations is expressly provided for under the section.

The apportionment section is to take effect only upon condition that the provisions of art. X, sec. 4 of the state constitution relating to assembly representation are compatibly amended or that those provisions as they relate to city representation on the borough assembly are held to be in violation of the federal constitution by the state supreme court.

While the section sets out specific times at which the assembly is required to examine its apportionment, the section is intended as well to permit an assembly at its option to propose a change in assembly composition or apportionment, notwithstanding that existing apportionment may satisfy equal protection standards. All changes in assembly composition and apportionment, whether by ordinance or Local Affairs Agency action under the section, are effective beginning with the next regular assembly election. In the event the conditions upon which the provisional section is to become effective do not occur, the code retains the present provisions of borough law relating to assembly composition and apportionment.

Borough and City Executive. In boroughs which adopt a manager plan, the code establishes an office of borough mayor, paralleling in concept the retention in the code and present law of the office of mayor in cities which have adopted city manager plans. The borough mayor's official functions are the same as those of the mayor as city chief executive in manager cities, i.e. presiding at governing body meetings, serving as municipal ceremonial head, and signing official documents. Under present law, manager plan boroughs have no elected executive office, and the office of manager combines the executive and administrative roles. Like present borough chairmen in boroughs which have not adopted a manager plan, the borough mayor is elected areawide, and has no vote on the assembly but may veto most assembly actions. Unlike the borough chairman, who serves as both executive and chief administrator of the borough, the borough mayor is designated as executive of the borough, with the functions noted above, but functions as chief administrator remain with the manager.

While preserving the differences in functions between borough chairmen in non-manager plan boroughs and borough mayors in manager plan boroughs, the Conference bill substitutes the title "borough mayor" for "borough chairman" in non-manager plan boroughs as well as employing the same title to describe the newly established office for manager plan boroughs. Use of the identical term in both cases is intended to avoid confusion in reference to borough executives.

In manager plan cities, as with manager plan boroughs, the Conference bill denotes the mayor as chief executive and the manager as chief administrator; the bills under consideration designate the manager as both, while assigning functions to preside at council meetings, serve as ceremonial head, and sign documents, to the mayor.

It should be noted the designation of the mayor as executive and the manager as administrator, as with the borough mayor and manager, is not intended to confer powers upon the respective officials independently of those otherwise expressly conferred in the bill. Moreover, a number of code sections have required amendment, with the term "administrator" or "chief administrator" being added to, or substituted for, the term "executive". These changes are intended in all cases but one to be technical changes only, reflecting the separation in roles of executive and chief administrator which the Conference bill formalizes in manager plan cities and boroughs. The exception concerns sec. 29.48.150 in which the power to introduce ordinances, conferred in the bills

under consideration to assembly or council members or committees and the municipal executive, is broadened to include the borough or city chief administrator. The addition has the effect of preserving the authority of borough and city managers, as the "municipal executive" under existing law, to introduce ordinances and extends the authority as well to the elected mayors in manager plan boroughs and cities.

Another modification of the Conference bill authorizes the borough executive (mayor) with assembly approval to designate a person to serve as mayor in case of his temporary absence or disability. Current law and the bills under consideration require the assembly presiding officer (or his designee, under current law) to act as temporary chairman in all cases.

The changes noted above relating to the city and borough executive and administrator are binding on general law, but not home rule, municipalities.

#### ALTERATION OF BOUNDARIES.

In relation to unification of a borough and cities within it as a single unit of home rule local government, the Conference bill rewords the question submitted to voters at the first election to determine whether a unification commission should be elected to prepare a proposed unification charter for voter approval at a second election. Rather than submit the question, as under current law and the bills under consideration, "Shall the .....Borough and all cities within it unite into a single unit of home rule government after the election of a Charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and a majority vote from the remaining area composed of all first class and home rule cities of the borough?", the Conference bill poses to the voters the simpler and more limited question, "Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the ..... Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law?".

The revised wording of the ballot question for the first election reflects the conclusion that as a practical matter the question of unification is decided at the time of the second election, i.e. the election on the charter prepared by the elected unification charter commission. The preference poll, authorized under current law and the bills under consideration, as to the name of the unified government should one be formed is omitted as a ballot question in the Conference bill.

The Conference bill, in addition, authorizes an assembly resolution as an alternative means to a petition for placing the question of formation of a unification charter commission on the ballot.

The Conference bill expressly provides that boundary changes made by the state Local Boundary Commission under its direct constitutional authority (art. X, sec. 12 of the state constitution) prevail over boundary changes initiated by local action. Both under current statutes and the bills under consideration this principle seems presumed but is not expressly stated.

#### MUNICIPAL DEBT.

The Conference bill specifies the municipal governing body or its designee in both home rule and general law municipalities as the sole contracting authority for bond attorneys, bond consultants and financial consultants engaged in long-range municipal financial planning which leads to the sale of bonds. The provision does not affect the governing body's authority to contract, or to delegate its authority to contract, the services of other professional consultants.

Other provisions of the Conference bill broaden code provisions on issuance of tax anticipation notes to include notes issued in anticipation of revenues generally (the power to borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year being specifically conferred upon political subdivisions under art. IX, sec. 10 of the state constitution). The specific revenue anticipation note authority conferred in the bill derives from SB 316 currently before the legislature.

#### INCORPORATION.

Boroughs. The Conference bill eliminates the requirement that an area proposed for borough incorporation must encompass a trading area. The reference was not considered clear as to meaning or necessary in the context of other broad standards of incorporation set out in the code.

#### POWERS APPLICABLE TO ALL MUNICIPALITIES.

The Conference bill adds several powers to those which general law cities and boroughs are authorized to exercise under this chapter. Like most other powers listed in the chapter, the powers are designated in general terms; a liberal construction is subsequently provided for (in accordance with art. X, sec. 1 of the state constitution). Specifically, animal control and water pollution control powers are added. Also added are consumer protection powers, intended to include regulatory as well as other methods of consumer protection services, without restricting powers to regulate particular activities elsewhere in the code, particularly at sec. 35 of the chapter.

Unlike consumer protection and most other powers enumerated in the chapter as to boroughs, the animal control and water pollution control powers are added to a limited category of powers which under existing law may be exercised in the borough area outside cities, or areawide, at the option of the borough and without the usual prerequisites of petition and voter approval

for exercise of the power. As under existing law, city exercise of the powers once they are exercised areawide by the borough is preempted unless the borough ordinance assuming the powers provides otherwise or subsequently the borough ceases to exercise the power. Dog control powers are presently authorized areawide and in the borough areas outside cities in the manner described; the Conference bill expands the present authority to include animal control generally. As to water pollution control, the Conference Committee considered authorizing water pollution control facilities and services on an areawide basis (under sec. 29.48.030) but decided exercise of such authority by the borough should be subject to prior petition and vote of the people, in the usual manner for acquisition of areawide powers; the water pollution authority granted, accordingly, is only regulatory in nature. The grant of water pollution authority to second class boroughs in the area outside cities encompasses both regulatory functions and authority to provide public facilities and services.

With respect to existing authority in the bills under consideration for municipal transportation system facilities and services, the Conference bill adds that power to the limited category of powers which may be exercised areawide or in the borough area outside cities at the option of the borough and makes areawide exercise of the power exclusive of city exercise within the borough. However, with respect to general law boroughs which are not exercising the power on the effective date of the code, a city objecting to assumption of the power areawide is entitled to review of the question by the Alaska Transportation Commission, and the commission is to decide in the particular case whether or not borough exercise of the power areawide is in the public interest. Should the commission decide in the negative, city exercise within the city and borough exercise in the area outside cities would be authorized, subject to areawide assumption by the borough of the power in the usual manner of petition and areawide vote. The power conferred to provide transportation systems and facilities is in addition to power conferred elsewhere in the code for municipal franchising of bus transportation systems.

The bills under consideration incorporate provisions of existing law which give some detail on municipal powers relating to establishment, maintenance and operation of garbage collection and disposal systems. The Conference bill retains those provisions and adds solid waste collection and disposal to their terms. Garbage and solid waste collection and disposal are viewed as largely interrelated activities.

The Conference bill makes special provision on areawide exercise of building, housing or related code powers, but only with respect to flood control, so as to preserve eligibility for federal flood control aid in those boroughs presently exercising areawide flood control powers.

In code transitional provisions, the Conference bill increases from 90 to 180 days after the effective date of the code the time period assigned to local governments for conforming local ordinances as necessary with the code, except for the provisions of

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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In code transitional provisions, the Conference bill increases from 90 to 180 days after the effective date of the code the time period assigned to local governments for conforming local ordinances as necessary with the code, except for the provisions of

AS 29.28.040 relating to runoff elections in general law cities and boroughs; these supersede conflicting provisions of local ordinances at the time the code takes effect as law.

In addition to the substantive changes summarized above, the Conference bill incorporates technical changes to coordinate the substantive changes made with other code sections affected, to insure that existing provisions of law not substantively changed by the code are retained, and otherwise to refine wording of code provisions.

Senate members

s/ Terry Miller  
Senator Terry Miller, Chmn

s/ Edward Merdes  
Senator Edward A. Merdes

s/ Clifford J. Groh  
Senator Clifford Groh

House members

s/ Mike Miller  
Representative Mike Miller, Chmn.

s/ Ed Naughton  
Representative Edward Naughton

s/ Jess Harris  
Representative Jess Harris

Supplemental Report  
to  
Free Conference Committee Report  
on  
SCS CSHB 208 am S and CSHP 208 am  
(Revised Municipal Code)

June 15, 1972

COMPARISON OF THE REVISED MUNICIPAL CODE  
(FCCS SCS CSHB 208) AND EXISTING LAW

The Free Conference Committee Report on SCS CSHB 208 am S and CSHB 208 am (revised municipal code) submitted to the legislature on May 22, 1972 notes the substantive changes which the Conference bill (FCCS SCS CSHB 208) makes in provisions of the bills referred to the committee. Most of the changes noted are changes of existing law as well as the bills referred. This supplemental report notes mainly additional changes of existing law represented overall by the Conference bill. In addition to serving as a useful comparison of existing law and the revised code, the report is offered to reflect legislative intent where the intent expressed and the pertinent code provisions are consistent.

Foreword

The need for revision of the local government laws of the state, many 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. Its adoption in the current session of the legislature follows some seven years of review and subsequent revision by committees of the legislature as well as by the Alaska Municipal League, the public through hearings, municipal and school officials, staffs of the legislative and executive branches of the government, and many other interested parties.

The final form of the code derives largely from a draft prepared and submitted in 1971 by a committee of the Alaska Municipal League comprised of municipal attorneys and administrators. The League draft in turn is based on earlier versions of the 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.

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 limited considering the scope of the revision and the technical revision made. Inasmuch as the code is an entire recodification of the laws relating to cities and boroughs now

found in Titles 7 and 29, it is virtually impossible to specify every change that has taken place between the code and existing law, but this comparison is intended to indicate the major impact of the revision represented by the Conference bill.

### 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 Conference bill).

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

The code simplifies classification of cities by providing for two instead of four classes of general law cities (Sec. 29.08.-030). A population minimum of 400 permanent residents is set as the number necessary to incorporate a first class city under the code, as under present law. A minimum of 25 permanent residents is set for second class city incorporation (Secs. 29.-18.010 and 29.18.020).

The distinction between the two classes of cities relates primarily to property-tax and school powers and reflects the basic distinction under present law between first, second and third class cities, which have property taxing power and, in the unorganized borough, are school districts, and fourth class cities, which have neither the school powers nor property taxing powers for general municipal purposes. That distinction is maintained under the new classification, except that second class cities under the code, i.e. present fourth class cities, are accorded power to provide for a limited property tax upon referendum vote, as noted further under municipal assessment and taxation.

The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the code. Existing second and third class cities with populations of 400 or more 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 with populations under 400 and located outside boroughs may not have sufficient population or tax base to carry the school function. Therefore, those cities are given the option of becoming either first class or second class, depending upon their abilities and preferences, as assessed by the Local Boundary Commission and subject to legislative review. Existing fourth class cities automatically become second class cities under the code, with generally the same powers and responsibilities which they now possess (except for the limited property-tax levying power if conferred by referendum) (Secs. 29.08.010 through 29.08.050 and Secs. 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 code standardizes the procedures for adopting a charter in either a first class city or borough. The power of home rule municipalities to amend an existing charter or adopt a new one is expressly recognized in the chapter (Sec. 29.13.010), and, insofar as the provisions of Article 1, Charters are concerned, only the general requirements governing charter amendment (Sec. 29.13.080) apply to municipalities having home rule charters when the code takes effect as law.

Home rule limitations are gathered together and listed in one place in Article 2 of the chapter (Sec. 29.13.100). The listing makes explicit the legislative intent as to which provisions of the code apply to home rule municipalities, as prohibitions on acting otherwise than as provided, and which do not. Additionally, the provisions themselves contain a specific reference making them applicable to home rule municipalities. The listing and specific references in the provisions are intended to coincide. (As additional provisions of law are enacted subsequent to the time the code takes effect, provisions which are intended to apply to home rule as well as to general law municipalities as prohibitions on acting otherwise than as provided should make a specific reference to home rule municipalities within the provision and should, under the form of the new code, also be included in the listing under Sec. 29.13.100, so as to maintain clearly the legislative distinction as to which code provisions apply to home rule municipalities and which do not.)

### Chapter 18. Incorporation

Incorporation procedures are made uniform for all municipalities (Secs. 29.18.050 - 29.18.110). Special restrictions of existing law on incorporation of fourth class cities are thus removed as to incorporation of these cities as second class cities under the code. As noted in the Conference report, standards for borough incorporation are revised in a very limited sense for clarity. An additional change separates the election of initial municipal officers from the incorporation election itself (Sec. 29.18.120).

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 which are incorporated, or reclassified as first class cities, after January 1, 1968. Organizational money grants based on an allocation of \$10 per voter are authorized. A minimum grant of \$25,000 is authorized for communities assuming the school function for the first time, either by incorporation 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 revision 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, enjoyed this right of selection. 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, consistent with the best interests of the state.

### Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and local officers is gathered into this chapter. Provisions respecting the borough and city executive have been revised as described in the Conference report. In addition, the veto power of borough chairmen (to be designated borough mayors in the revision) 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. That it may be is expressly provided (Secs. 29.23.170(a) and 29.23.270(s)). In the same subsections 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 executive may veto only that which governing body may enact, and the only power the governing body has with respect to the school budget is to approve or disapprove the total budget).

The code provides that the mayor of a first class city is elected directly by the voters, has the veto power, but votes only in case of a tie. The mayor of a second class city is elected as a councilman, and is then selected as mayor by the council; he may vote but has no veto power (Secs. 29.23.250(b) - (c), 29.23.260 and 29.23.270). The borough mayor does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

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.)

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).

Provisions of existing law requiring disclosure by a borough officer or employee of any direct or indirect financial interest in contracts with, or sales made to, the borough are not retained in the code as adopted; however, assemblymen in general law boroughs are prohibited in the code from voting on questions in which they have a substantial direct or indirect financial interest (Sec. 29.23.060(d)).

#### Chapter 23. Elections

The major revisions with respect to municipal elections are outlined in the Conference report. In addition, the section on recall has been changed from existing law to eliminate the requirement that a successor to the office affected by the recall run 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).

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of the powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110). (All provisions of the initiative and referendum article are intended to govern within general law cities and boroughs both.)

Municipal elections are nonpartisan for all municipalities as under existing law (Sec. 29.28.010).

#### 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 present law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the code broadens this to include the collection of use and sales taxes authorized by the voters (Sec. 29.33.030).

The relationships between school boards and borough assemblies are retained substantively as under present law, except, as noted in the Conference report, consideration in the design of school buildings for multiple use for community purposes is specified. The provisions are transferred to Title 14, Education, rather than being retained, as under existing law, in the municipal statutes (Secs. 8 and 9 of the Conference bill).

There has been considerable smoothing out in the planning, platting and zoning article (Secs. 29.33.070 - 29.33.245), with a number of substantive changes. Among them, provision is made to insure membership from cities on borough planning commissions (the reference to first class cities in the provision, Sec. 29.23.080, is intended to encompass home rule as well as first class cities not having adopted a charter). The planning commission itself is authorized to decide on variances subject only to appeal to the board of adjustment. (Secs. 29.33.080(d) and 29.33.110(b)). Under the current procedure all variances, no matter how routine, go to the board of adjustment. Another change, noted in the Conference report, expressly authorizes delegations of planning commission, platting board and board of

adjustment functions to hear and decide cases (Sec. 29.33.245), and the provisions of CSHB 290, relating to land subdivisions and adopted by both houses during the current session, are incorporated in the revision. A further change of existing law places power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than in the boroughs as part of the areawide 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, a borough exercising the powers within cities when the code takes effect may continue to exercise the powers upon agreement between a city and the borough; if there is no agreement, the city is required to exercise the powers within the city and the borough is required to continue exercising the powers outside the city (Sec. 29.48.035). A limited exception, noted in the Conference report, reserves the powers to boroughs for flood control purposes only, if the powers are being exercised areawide for those purposes when the code takes effect. (Existing borough law has been interpreted to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under the code the planning commission must prepare and recommend an official map (Sec. 29.33.080(b)), but this brief reference to an official map is not intended to require municipal adoption of an official map or to imply legal effects of an official map if adopted. (Former proposed provisions of the code required map adoption and prescribed its effects, but those provisions were not retained in the code.)

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 (Sec. 29.33.250). The same section also makes explicit the power of first class boroughs to acquire additional areawide powers by means of an areawide election on the question, as well as by transfer from cities. Elections on the question of adding areawide powers are authorized by petition of the voters as well as by assembly proposal (Sec. 29.33.270).

Moreover, the Local Affairs Agency is no longer required to pass upon the acquisition of additional areawide powers; the evaluation is to be made by the assembly after public hearing (Sec. 29.33.280). (Petitions for acquisition of powers pending before the Local Affairs Agency or the Local Boundary Commission at the time the code takes effect as law are presumably preserved under the transitional provision of Sec. 3 of the Conference bill.)

Other substantive changes relating to areawide borough powers and duties are noted in the Conference report, under the discussion of powers applicable to all municipalities. (The conditions on city exercise of the areawide powers noted in the Conference report are intended to include home rule as well as general law cities in all cases.)

#### 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 explore

those 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. 29.3b.010).

A second 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 (with animal control limited to dog control). Acquisition of additional powers and duties in the area outside cities again may be proposed by voters' petition as well as by the assembly and no longer requires review by the Local Affairs Agency (Sec. 29.38.040).

#### Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged. Acquisition of powers in the borough area outside cities is intended, as under present law, to be governed by provisions of law applying to second class boroughs. The borough assembly continues to function as the school board in third class boroughs, and the borough executive serves as presiding officer of the assembly. The requirement of present law that the executive be appointed from and by the assembly is not retained in the code. (Under the transitional provisions of Sec. 3 of the Conference bill authorizing local ordinances to remain in effect for a period of 180 days from the date the code takes effect as law, a third class borough ordinance providing for an executive to be appointed from and by the assembly presumably would preclude election of an executive by the voters until the first regular election following expiration of the 180-day period, unless the ordinance is earlier amended to conform with the code.)

#### Chapter 43. Powers of Cities Outside Boroughs

Authority is provided for home rule and first class cities outside boroughs to assess, levy and collect a general property tax within city boundaries. Sales and use tax authority within boundaries of all cities is also conferred. Taxes are to be assessed, levied and collected in the manner set forth for boroughs in the code (Sec. 29.43.020). (The limited property tax power of second class cities is not expressly stated in this provision but is authorized through Sec. 29.53.410.)

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. (Sec. 29.43.030).

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 (Sec. 29.43.040) (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

The major changes with respect to this code subject are summarized in the Conference report. As the report notes, an entirely new approach from that of existing law 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 revision 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 provision also eliminates the present requirement for a new hearing should there be an amendment as to substance, since the original hearing is viewed as providing the public the opportunity to propose changes to improve the ordinance.

In addition to requiring copies of ordinances to be made available, the code requires municipalities to codify ordinances and resolutions (Sec. 29.48.180). This section bears some specific comment on meaning. Subsections (a) and (c) of Sec. 29.48.180, requiring that ordinances and resolutions be codified by one of two methods, is intended to apply to cities, as is indicated by the definition in (a)(2). However, as to cities incorporated after the code takes effect, (b) of the section also applies and requires adoption and retention of a general codification of ordinances within three years of incorporation. (In effect, a similar type of codification to that of (c)(2) is required; resolutions continue subject to the optional methods of codifying under (a)). Also, (b) applies to boroughs which are incorporated after the code takes effect, and the provision is intended as well to carry over as a requirement on existing boroughs; notably, it appears in current borough law in almost identical form. (While official responsibility for preparation of a codification is assigned the municipal executive, it is anticipated that supervision of preparation in manager plan cities and boroughs will fall to the municipal administrator, i.e. the manager.)

Authority to establish centralized purchasing for the municipality and its departments (but not including schools) is expressly conferred under the code (Sec. 29.48.250).

Under existing law, emergency disaster powers are applicable only to certain municipalities. The code authorizes all municipalities, regardless of classification, to exercise emergency disaster powers (Sec. 29.48.270), on the reasoning that should a disaster strike the classification of city is not relevant.

## Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to provide for property, sales and use taxes. Boroughs and home rule and first class cities may utilize all the taxes. Second class cities may provide for sales and use taxes. Second class cities, both within and outside organized boroughs, may also tax property for general municipal purposes at a rate not to exceed one-half of one per cent of the assessed valuation of the property taxed, if authority to do so is conferred by municipal referendum (Sec. 29.53.410).

Within a borough the borough collects all the taxes, provided the borough itself levies a sales or use tax. (Under existing law boroughs are required to assess and collect only the property taxes levied by cities.) Within a borough, a city collects sales or use taxes if the borough does not itself levy and collect such taxes (Sec. 29.53.450). If a borough levies and collects sales or use taxes on an areawide basis, cities within the borough which levy such taxes within their boundaries must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). (The uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes. (The power of second class cities to levy a limited property tax, under Sec. 29.53.-410, is intended to include, in the case of second class cities outside boroughs, the power to assess and collect the taxes as well.)

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy, and collection of property taxes are applied uniformly to all municipalities, home rule as well as general law. 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 municipalities, but there has been doubt under existing law whether other taxing provisions (as well as many other provisions of current local government law) apply.

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions or exclusions as to residential property to be made by ordinance ratified by the municipal voters (Sec. 29.53.025(a)). Any exemptions or exclusions granted by home rule municipalities and in effect on the date the code takes effect as law are not affected by enactment of the code (Sec. 29.53.025(d)).

Property assessment procedures for tax purposes are consolidated and simplified under the code. A provision of former law, repealed some years ago and establishing a limited value for certain unimproved or nonproducing mining claims, is restored (Sec. 29.53.030).

The code continues provisions of present law imposing a municipal tax limitation on all municipalities of three per cent of the assessed valuation of property within the municipality and excepting taxes for the payment of bond obligations from the limitation (Secs. 29.53.050 and 29.53.055). (As noted above, a more restrictive limitation is imposed as to the newly

conferred power of second class cities to levy a property tax upon referendum approval, i.e. a limitation of one-half of one per cent of the assessed valuation of the property taxed. That limit may be exceeded in a second class city which has authorized a property tax by referendum, but only if levy of the tax is necessary to avoid a default in payment of bond or other debt obligations (Sec. 29.53.410). Authority for a levy to meet bond obligations is provided fourth class cities under present law.)

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 existing 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 within the city not be needed for public use by the city but be needed for public use by the borough, the borough may obtain such property. The same holds true for unredeemed property in the area outside the city needed by the city. 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 on voter approval but are not allowed to levy a use tax. Under the code, as noted, both may be levied. The use tax being a correlative of the sales tax, no election is required to authorize the use tax (Secs. 29.53.415, 29.53.-420, 29.53.440 and 29.53.450). (Municipalities in which sales taxes have been authorized by municipal voters before the date the code takes effect as law are intended to be included within the code authority for levy of a use tax.)

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).

Other provisions relating to municipal assessment and taxation are noted in the Conference report. (With reference to the code exemption of the place of abode of residents 65 years of age or over from city and borough real property taxation, the Conference report should correctly read that the exemption applies to such residents whose gross annual income totals less than \$10,000, rather than, as stated in the report, whose annual net taxable income is less than \$10,000.)

#### Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of revenue 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. IX,

sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes revenue anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.060).

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 bond indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160).

Under existing law an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is modified in the code to require no election unless an election is required by local ordinance (Sec. 29.58.205). In boroughs, if the full faith and credit of the borough is pledged to guarantee payment of principal and interest on bonded debt incurred on behalf of the borough area outside cities or a service area only, majority voter approval must be obtained both boroughwide as well as in the area outside cities 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.

Further provisions on municipal debt are outlined in the Conference report.

#### Chapter 63. Special Assessments and Service Areas

The code revises provisions of existing law governing special assessments. Procedural fairness requirements for making assessments are retained, but much of the unnecessary cumbersome of existing provisions is removed.

Significantly, the revision also provides that special assessments may be levied against property owned by other governmental units (Sec. 29.63.010). The state is required to pay the assessment, subject to its right of protest. A governmental unit other than the state which refuses to pay the assessment is denied the benefit of the improvement.

#### Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated in the code. The Local Boundary Commission is required to establish procedures for annexation and exclusion by local action (Sec. 29.68.010(b)). As noted in the Conference report, a boundary change made directly by the Local Boundary Commission is recognized as prevailing over a change initiated by local action (Sec. 29.68.010(c)).

Merger and consolidation is made uniform for all municipalities under the code and is authorized by either petition to the Local Boundary Commission under regulations adopted by the commission or by local election after approval of a merger or consolidation petition by the commission. (Under present statutes, essentially the second method only is authorized for borough merger and consolidation, and city consolidation is conditioned on adoption of ordinances calling for an election by the governing bodies of cities concerned and approval of proposed consolidation by the respective city voters.)

Unification of a borough and cities within it is authorized as under present law (Secs. 29.68.240 - 29.68.440), with modifications as noted in the Conference report and with more specific provisions made than those of present law concerning authority of the unified government to allocate preunification debt (Secs. 29.68.350(a)(1) and 29.68.410).

Dissolution of municipalities under the code is made uniform for all municipalities and may be proposed by either petition to the Local Boundary Commission under regulations adopted by it or by local option election (Sec. 29.68.500(a)). Essentially the same procedures are available to cities seeking dissolution under present law. Borough dissolution is authorized by local election after approval of a dissolution petition by the Local Boundary Commission. The Local Affairs Agency is required under the code to investigate municipalities which it considers inactive and to report on their status. The commission may recommend to the legislature that an inactive municipality be dissolved (Sec. 29.68.500(c)). The recommendation is made in the same manner as boundary change recommendations are made under art. X, sec. 12 of the state constitution.

#### Chapter 73. Miscellaneous Provisions

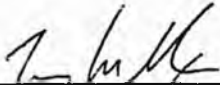
Municipalities are authorized powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). In second class cities, as with fourth class cities under present law, exercise of eminent domain and declaration of taking in the performance of an authorized city power or function is subject to approval of the Local Affairs Agency and voter approval of an ordinance for the purpose.

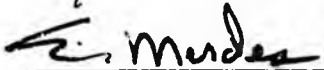
#### Conclusion

Additional revisions of existing law represented by the Conference bill are noted in the Conference report. Several technical corrections in citations and provisions, largely to coordinate related code provisions after recent changes, remain to be made in a separate bill. If not adopted at the current session of the legislature, these technical corrections will be submitted to the revisor of statutes for recommended inclusion in the forthcoming revisor's bill.

In general, the revised code is presented primarily as a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout the present Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The revised 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.

Senate Members

  
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Senator Edward A. Merdes

  
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Senator Clifford J. Groh

House Members

  
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Representative Jess Harris

T A B L E O F C O N T E N T S

FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208

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(Recently adopted legislation incorporated by the Free Conference Committee in the municipal code and relating to involvement of young people in local government and development cities appears beginning at page 137 and page 139, respectively.)

Original sponsor: Local Government Committee

Offered: 5/22/72

1 IN THE HOUSE BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 208

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to revise and codify the law relating to  
7 cities and boroughs."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. The following laws are repealed: AS 07.05 - 07.40;  
10 AS 18.75.010 - 18.75.030, 18.75.050 - 18.75.060; AS 29.05 - 29.95; AS 37.30;  
11 AS 40.15.100 - 40.15.180.

12 \* Sec. 2. AS 29 is amended by adding new chapters to read:

13 TITLE 29. MUNICIPAL GOVERNMENT.

14 CHAPTER 3. THE UNORGANIZED BOROUGH.

15 Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not  
16 within the boundaries of an organized borough constitute a single  
17 unorganized borough.

18 Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local par-  
19 ticipation, the legislature may establish, alter, or abolish service  
20 areas within the unorganized borough to provide special services, which  
21 may include but are not limited to schools, utilities, land use regula-  
22 tions and fire protection. A new service area may not be established  
23 if the new service can be provided by an existing service area, by  
24 incorporation as a city, or by annexation to a city.

25 CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES.

26 Sec. 29.08.010. HOME RULE. A home rule municipality is a munici-  
27 pal corporation and political subdivision and is a borough of the first  
28 class or city of the first class which has adopted a home rule charter.  
29 It has all legislative powers not prohibited by law or charter.

1           Sec. 29.08.020. GENERAL LAW. A general law municipality is a  
2 municipal corporation and political subdivision and is an unchartered  
3 borough or city. It has legislative powers conferred by law.

4           Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipali-  
5 ties are of five classes:

- 6           (1) first class boroughs;
- 7           (2) second class boroughs;
- 8           (3) third class boroughs;
- 9           (4) first class cities;
- 10          (5) second class cities.

11          Sec. 29.08.040. RECLASSIFICATION. (a) A second class city may  
12 be reclassified as a first class city by holding an election on the  
13 question as provided in this subsection, if the Local Affairs Agency  
14 determines from the best figures available that the population of the  
15 city has reached 400 permanent residents.

16          (b) An election on the question of reclassification may be  
17 initiated in two ways:

- 18           (1) a number of voters equal to 15 per cent of the number  
19 of votes cast in the city at the preceding regular election may file  
20 a petition with the council; or
- 21           (2) the council may propose reclassification.

22          (c) The council shall hold at least one public hearing within the  
23 city on the question. The council shall then evaluate the ability of  
24 the city to assume first class status and make its findings public.

25          (d) The council shall, within 30 days after its findings have  
26 been made public, order an election to be held on the question. The  
27 election shall be held at least 30 days after the order and not later  
28 than the next regular election occurring after the 30-day period.

29          (e) If more than one question is to be voted on at the election,

1 each appears separately on the ballot.

2 (f) The council shall certify the election results to the Local  
3 Affairs Agency. If the majority of votes cast on the question is  
4 favorable, the city shall be considered reclassified to first class  
5 status 30 days after certification of the election results.

6 (g) A second class borough may reclassify as a first class or  
7 third class borough, and a third class borough may reclassify as a  
8 first class or second class borough, in the manner provided by AS 29.-  
9 33.270 - 29.33.290 for the addition of powers by boroughs, except  
10 the petition or proposal requests reclassification instead of requesting  
11 addition of powers.

12 (h) At the time of voting on reclassification of a second class  
13 borough to third class status, borough voters in conformity with  
14 AS 29.41 shall elect an assembly to serve as the combined assembly and  
15 school board of the third class borough if reclassification is approved.

16 (i) At the time of voting on reclassification of a third class  
17 borough to second class or first class status, borough voters shall  
18 vote also on the question whether the borough shall upon reclassifica-  
19 tion retain a combined assembly and school board or a separate assembly  
20 and board as otherwise provided for first and second class boroughs.  
21 If the majority of votes cast on the question favors retention of the  
22 combined assembly and board, the assembly serving at the time of the  
23 reclassification election continues to serve as the assembly and board  
24 upon voter approval of reclassification and until terms of assemblymen  
25 expire as provided before reclassification. If a separate board and  
26 assembly are approved at the reclassification election, a school board  
27 shall be elected in conformity with AS 14.12 at the next regular municipi-  
28 pal election, if it occurs within 90 days of the date of the reclassi-  
29 fication election, or otherwise at a special election within that time

1 called by the assembly with expiration dates of terms of members  
2 elected at the special election to coincide with the date of the regu-  
3 lar municipal election. Until a board is elected and qualified, the  
4 assembly continues to serve as the board.

5 Sec. 29.08.050. TRANSITION. (a) Upon the effective date of  
6 this Act, the current classification of existing home rule cities  
7 and of first class cities having 400 or more permanent residents is  
8 not affected by this Act. Second and third class cities incorporated  
9 before the effective date of this Act and having 400 or more permanent  
10 residents are reclassified as first class cities. The city council  
11 shall certify by resolution the number of permanent residents within  
12 the city. Upon the failure to certify, the Local Boundary Commission  
13 shall hold a public hearing and make a determination as to classification  
14 as provided in (c) of this section.

15 (b) Upon the effective date of this Act, fourth class cities  
16 incorporated before the effective date of this Act are reclassified as  
17 second class cities subject to reclassification under sec. 40 of this  
18 chapter.

19 (c) The Local Boundary Commission shall, within two years of the  
20 effective date of this Act, hold a public hearing in each city which  
21 was first, second, or third class before the effective date of this Act  
22 and whose population is under 400 permanent residents. The commission  
23 shall determine in each case whether the city should be classified  
24 as first or second class under the new classification. The commission's  
25 decision must be published at least once. Unless objections are filed  
26 with the Local Boundary Commission by at least five per cent of the  
27 permanent residents of the city within 60 days, the classification  
28 recommended by the commission becomes effective on the 61st day. If  
29 objections are filed by at least five per cent of the permanent

1 residents of the city, the commission shall submit its recommendation  
2 to the legislature in the manner provided for submission of boundary  
3 changes in sec. 12, art. X of the state constitution.

4 CHAPTER 13. HOME RULE MUNICIPALITIES.

5 ARTICLE 1. CHARTERS.

6 Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class  
7 municipality may adopt a charter for its own government. A home rule  
8 municipality may amend its charter or adopt a new one. A charter is  
9 framed by a charter commission of seven members chosen by the municipal  
10 voters at a regular or special election. A candidate for the commis-  
11 sion must be a qualified voter of the municipality and a resident of  
12 the municipality for three years immediately preceding the election.  
13 A charter commission election is called by filing a petition with the  
14 borough assembly or the city council, or by resolution of the borough  
15 assembly or city council. The petition must be signed by a number of  
16 municipal voters equal to 10 per cent of the votes cast in the last  
17 regular election of the municipality.

18 Sec. 29.13.020. NOMINATION. Charter commission candidates are  
19 nominated by petitions signed by 50 voters or the number of qualified  
20 municipal voters equal to 10 per cent of the number of votes cast in  
21 the last regular election, whichever is less.

22 Sec. 29.13.030. ELECTION. At the charter commission election  
23 the voters shall consider the question "Shall a charter commission be  
24 elected to frame a proposed new charter?" and shall select the members  
25 of the commission. If the question is approved, the seven candidates  
26 receiving the highest number of votes shall immediately organize as  
27 a charter commission.

28 Sec. 29.13.040. PREPARATION OF CHARTER. The charter commission  
29 shall, within one year, prepare a municipal charter. The proposed

1 charter shall be signed by a majority of the charter commissioners  
2 and filed in the office of the municipal clerk. Within 15 days, the  
3 borough assembly or city council shall have the charter published  
4 once in a newspaper of general circulation if distributed within the  
5 municipality. The clerk shall post copies of the proposed charter in  
6 at least three public places and make copies available at the office  
7 of the clerk. The commission shall give published notice of and hold  
8 at least one public hearing on the proposed charter before signing  
9 and filing of the charter.

10 Sec. 29.13.050. INITIATIVE AND REFERENDUM. (a) Municipal  
11 charters shall provide the procedures for the initiative and referendum.

12 (b) A charter may not require an initiative or referendum peti-  
13 tion to have a number of signatures greater than 25 per cent of the  
14 total votes cast at the last regular municipal election.

15 (c) A charter may not permit the initiative and referendum to be  
16 used for a purpose prohibited by sec. 7, art. XI of the state consti-  
17 tution.

18 Sec. 29.13.060. CHARTER ELECTION. The charter shall be submitted  
19 to the municipal voters at a regular or special election held not  
20 less than 30 days nor more than 90 days from the publication of the  
21 charter.

22 Sec. 29.13.070. CHARTER ADOPTION. (a) If a majority of those  
23 voting on the question favor the proposed charter, it becomes the  
24 organic law of the municipality. Thereafter the court shall take  
25 judicial notice of the charter. The municipality shall file the  
26 indicated number of copies of the charter with the

- 27 (1) lieutenant governor - two copies;  
28 (2) Local Affairs Agency - two copies;  
29 (3) district recorder - one copy;

1 (4) municipal clerk - one copy.

2 (b) If a proposed charter is rejected, the charter commission  
3 shall prepare another proposed charter to be submitted to the voters  
4 at a regular or special election to be held within one year after the  
5 date of the first charter election. If the second proposed charter  
6 is also rejected, the charter commission shall be dissolved and the  
7 question of adoption of a charter shall be treated as if it had never  
8 been proposed or approved.

9 Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter may be  
10 amended as provided in the charter or by initiative referendum as  
11 provided in AS 29.28.060 - 29.28.110, except that no amendment shall be  
12 effective unless ratified by the voters.

13 ARTICLE 2. HOME RULE LIMITATIONS.

14 Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. Only the follow-  
15 ing provisions of this title apply to home rule municipalities as  
16 prohibitions on acting otherwise than as provided. They supersede  
17 existing and prohibit future home rule enactments which provide other-  
18 wise:

- 19 (1) AS 29.13.080 (charter amendment)  
20 (2) AS 29.18.140 (borough transition)  
21 (3) AS 29.23.020 - 29.23.050 (city representation and vote  
22 on borough assembly)  
23 (4) AS 29.23.250(a) (election and term of mayor)  
24 (5) AS 29.23.540 (prohibitions respecting appointment and  
25 removal of personnel)  
26 (6) AS 29.23.560 (municipal reports)  
27 (7) AS 29.23.580 (meetings public)  
28 (8) AS 29.28.010, 29.28.020(b) - 29.28.030 (municipal elec-  
29 tions)

- 1 (9) AS 29.28.130 - 29.28.250 (recall)
- 2 (10) AS 29.33.010(b) (areawide borough powers)
- 3 (11) AS 29.33.290(c) (acquisition of additional areawide
- 4 powers)
- 5 (12) AS 29.43.020 - 29.43.040 (powers of cities outside
- 6 boroughs)
- 7 (13) AS 29.48.033 (garbage and solid waste services)
- 8 (14) AS 29.48.035(c) (borough building code jurisdiction
- 9 within cities)
- 10 (15) AS 29.48.037 (extraterritorial jurisdiction)
- 11 (16) AS 29.48.040 - 29.48.100 (utilities)
- 12 (17) AS 29.48.180 (codification)
- 13 (18) AS 29.48.190(a) (fiscal year)
- 14 (19) AS 29.48.210 (expenditure of borough revenue)
- 15 (20) AS 29.48.220 (post audit)
- 16 (21) AS 29.53.010 - 29.53.350, 29.53.400 (borough and city
- 17 property tax)
- 18 (22) AS 29.53.415(d) (interest on sales tax)
- 19 (23) AS 29.58.180(b) (security for bonds)
- 20 (24) AS 29.58.315 (bond attorneys, bond and financial
- 21 consultants)
- 22 (25) AS 29.68.010 (annexation and exclusion)
- 23 (26) AS 29.68.030 - 29.68.110 (merger and consolida-
- 24 tion)
- 25 (27) AS 29.68.500 - 29.68.580 (dissolution)
- 26 (28) AS 29.73.020 (eminent domain)
- 27 (29) AS 29.73.030 (adverse possession)
- 28 (30) AS 29.73.040 (taxation of municipalities)
- 29 (31) AS 29.73.050 (municipal name changes)

1 CHAPTER 18. INCORPORATION.

2 ARTICLE 1. REQUIREMENTS.

3 Sec. 29.18.010. FIRST CLASS CITIES. A community having 400 or  
4 more permanent residents may incorporate as a first class city.

5 Sec. 29.18.020. SECOND CLASS CITIES. A community having 25 or  
6 more permanent residents may incorporate as a second class city.

7 Sec. 29.18.030. ORGANIZED BOROUGHES. An area may incorporate as  
8 an organized borough if it conforms to the following standards:

9 (1) the population of the area is interrelated and inte-  
10 grated as to its social, cultural, and economic activities, and is  
11 large and stable enough to support organized borough government;

12 (2) the boundaries of the proposed borough conform generally  
13 to natural geography and include all areas necessary for full develop-  
14 ment of local services;

15 (3) the economy of the area includes the human and financial  
16 resources capable of providing local services; evaluation of an area's  
17 economy includes land use, property valuations, total economic base,  
18 total personal income, resource and commercial development, antici-  
19 pated functions, expenses, and income of the proposed borough;

20 (4) land, water, and air transportation facilities allow  
21 the communication and exchange necessary for the development of  
22 integrated local government.

23 ARTICLE 2. PROCEDURES.

24 Sec. 29.18.050. PETITION. Municipal incorporation is proposed  
25 by filing a petition with the Local Affairs Agency. The petition shall  
26 include the following information about the proposed municipality:

- 27 (1) class;  
28 (2) name;  
29 (3) boundaries;

1 (4) composition and apportionment of the assembly or council;

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

4 (6) for a second class borough, a designation of areawide  
5 powers to be exercised and of powers to be exercised in the area out-  
6 side cities only;

7 (7) maps, documents, and other information required by the  
8 Local Affairs Agency to show that the proposed municipality meets the  
9 standards for incorporation;

10 (8) for first class city incorporation, the signatures and  
11 resident address of 50 permanent resident voters within the proposed  
12 municipality;

13 (9) for second class city incorporation, the signature and  
14 resident address of 10 permanent resident voters within the proposed  
15 municipality;

16 (10) for borough incorporation, the signature and resident ad-  
17 dress of 15 per cent of the permanent resident voters in each first class  
18 city and 15 per cent of voters in the area outside first class cities  
19 based on the number who voted in the respective areas in the last general  
20 election.

21 Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review  
22 petitions for content and signatures and shall return deficient peti-  
23 tions for correction and completion.

24 Sec. 29.18.070. INVESTIGATION. (a) If the petition contains  
25 the required information and signatures, the Local Affairs Agency  
26 shall investigate the proposal. It may use U.S. Bureau of the Census  
27 reports or other reliable information to determine more accurately  
28 the population of the proposed municipality.

29 (b) The agency may combine petitions for incorporation from the

1 same general area.

2 Sec. 29.18.080. REPORT AND HEARING. (a) The Local Affairs  
3 Agency shall report its findings to the Local Boundary Commission with  
4 its recommendations regarding the incorporation.

5 (b) The Local Boundary Commission shall hold at least one public  
6 hearing in the area proposed to be incorporated for the purpose of  
7 gauging public sentiment on the incorporation proposal.

8 Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. (a) If the  
9 Local Boundary Commission determines that a proposed borough fails  
10 to meet the standards for incorporation, it shall reject the petition.  
11 If the commission determines that the proposed borough meets the  
12 standards, it shall accept the petition. If the commission determines  
13 that the proposed boundaries can be altered to meet the standards,  
14 it may alter the boundaries and accept the petition.

15 (b) A commission decision under this section may be appealed  
16 under the Administrative Procedure Act (AS 44.62).

17 Sec. 29.18.100. DECISION ON CITY INCORPORATION. (a) If the  
18 Local Boundary Commission determines that proposed city boundaries  
19 are too restrictive or too expansive for efficient local government,  
20 it may alter the boundaries and accept the petition.

21 (b) The commission may reject a petition for incorporation of  
22 a city lying within a borough if it determines that desired municipal  
23 services can be more practically and economically provided by the  
24 borough or by annexation to an existing city.

25 (c) A commission decision under this section may be appealed  
26 under the Administrative Procedure Act (AS 44.62).

27 Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary  
28 Commission shall immediately notify the lieutenant governor of its  
29 acceptance of an incorporation petition. Within 30 days after notifi-

1 cation, the lieutenant governor shall order an election in the proposed  
2 municipality to determine whether the voters desire incorporation.  
3 The election is held not less than 30 nor more than 90 days after the  
4 date of the election order. The election order must specify the dates  
5 during which nomination petitions for election of initial officers may  
6 be filed.

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

10 (c) Areawide borough powers included in the incorporation petition  
11 are considered to be part of the incorporation question. In an election  
12 for the incorporation of a second class borough, each power to be exer-  
13 cised outside cities only is placed separately on the ballot. Adoption  
14 of a nonareawide power requires a majority of the votes cast on the  
15 question, and the vote is limited to the voters residing outside cities.

16 (d) The lieutenant governor shall supervise the election in the  
17 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-  
18 60). The state shall pay all election costs under this section.

19 Sec. 29.18.120. ELECTION OF INITIAL OFFICERS. (a) If incorpora-  
20 tion is approved, the lieutenant governor shall, within 10 days of  
21 certification order an election to choose an initial slate of officers.  
22 The election is held not less than 60 nor more than 90 days after the  
23 date of the election order.

24 (b) Nominations for initial officers are made by petition. The  
25 petition is in the form prescribed by the lieutenant governor and in-  
26 cludes the name and address of the nominee and a statement of the nomine  
27 that he is qualified under the provisions of this title for the office  
28 that he seeks. A person may file for and occupy more than one office,  
29 but he may not serve simultaneously as borough mayor and as a member

1 of the borough assembly or as mayor and as a member of the council of  
2 a home rule or first class city. Petitions to nominate officers of a  
3 second class city must include the signature and resident address of 10  
4 voters in the area of the proposed city. Petitions to nominate borough  
5 assemblymen must include the signature and resident address of 50 voters  
6 who are residents of the proposed borough in the area outside home rule  
7 and first class cities. Petitions to nominate other municipal officers  
8 must include the signature and resident address of 50 voters in the  
9 area of the proposed municipality.

10 (c) The lieutenant governor shall supervise the election in the  
11 general manner prescribed by the Alaska Election Code (AS 15.05 -  
12 15.60). The state shall pay all election costs under (a) - (c) of  
13 this section.

14 (d) The initial elected municipal officials take office on the  
15 first Monday following certification of their election. Borough  
16 assembly members representing home rule or first class cities are ap-  
17 pointed by the city council and serve until the next regular city  
18 election and until their successors are elected and have qualified.  
19 All other elected municipal officials serve until the first regular  
20 election occurring after they have served two years in office and  
21 until their successors are elected and have qualified.

22 Sec. 29.18.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE  
23 AREAS. Service areas in a newly incorporated borough or city shall  
24 be integrated into the borough or city within two years after the  
25 date of incorporation. On integration the borough or city succeeds to  
26 all the rights, powers, duties, assets and liabilities of the service  
27 areas. After integration, the borough assembly or city council may  
28 exercise within a former service area all of the rights and powers exer-  
29 cised by the service area at the time of integration, and may levy and

1 collect special charges, taxes, or assessments to amortize bonded  
2 indebtedness incurred by the service area or by a borough or city as  
3 successor to the service area. Upon integration no less than all pro-  
4 perty in the service area at the time of integration remains subject  
5 to taxation to pay the principal of and interest on the bonds. The pro-  
6 visions of this section shall apply to all organized boroughs whether in-  
7 corporated or organized before or after the effective date of this Act.

8 Sec. 29.18.140. TRANSITION. (a) The powers and functions  
9 exercised by home rule or general law cities and service areas which  
10 are succeeded to by a newly incorporated borough or city are exercised by  
11 them until the new borough or city assumes the powers and functions,  
12 which may not exceed two years after the date of incorporation. Ordi-  
13 nances, rules, resolutions, procedures, and orders in effect before the  
14 transfer remain in effect until superseded by the action of the new  
15 borough or city.

16 (b) The borough or city shall give written notice of its assump-  
17 tion of the powers, duties and other items enumerated in secs. 130 - 140  
18 of this chapter, to the city, and service area concerned before the as-  
19 sumption. Borough or city officials shall consult with the officials of  
20 the city, and service area concerned and arrange an orderly transfer.

21 (c) After the incorporation of a new borough or city, no service  
22 area within it may assume new bonded indebtedness, make any contract,  
23 or transfer any assets without the consent of the assembly or council.

24 Sec. 29.18.150. CHALLENGE OF LEGALITY. No person may challenge  
25 the formation of a municipality except within six months of the date  
26 of its incorporation.

27 ARTICLE 3. TRANSITIONAL ASSISTANCE.

28 Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the purpose of  
29 defraying the cost of transition to borough or city government and

1 in order to provide for development and interim governmental operations,  
2 each borough and city incorporated after January 1, 1968 or, in the case  
3 of a second class city, incorporated or reclassified after January 1,  
4 1968, other than a unified municipality incorporated under the provi-  
5 sions of ch. 134 SLA 1967, as amended, or a municipality otherwise  
6 incorporated by consolidation, is entitled to an organization grant  
7 equal to \$10 for every voter who voted in the borough or city incorpora-  
8 tion election. However, each incorporated borough and each first  
9 class city incorporated or established by reclassification outside an  
10 organized borough is entitled to at least \$25,000.

11 (b) Within 30 days after the date of incorporation of a borough  
12 or city following the effective date of this Act the Local Affairs  
13 Agency shall determine the number of voters in the borough or city  
14 who voted in the incorporation election.

15 (c) Within 30 days after the completion of its findings, or as  
16 soon thereafter as money is appropriated to it for the purpose, the  
17 Local Affairs Agency shall transmit to the borough or city the total  
18 amount of money to which the borough or city is entitled.

19 Sec. 29.18.190. STATE LAND. A borough or city may select 10  
20 per cent of the vacant, unappropriated, unreserved state land located  
21 within its boundaries. In the selection of land under the Alaska  
22 Statehood Act, it is the policy of the state to make available to  
23 cities and boroughs the maximum land area from which to make selections  
24 under this section consistently with the best interests of the state.  
25 Nothing in this section affects a valid existing claim, location, or  
26 entry under the laws of the state or the United States whether for  
27 homestead, mineral, right-of-way or other purpose or affects the  
28 rights of an owner, claimant, locator, or entryman to the full use  
29 and enjoyment of the land so occupied.

1           Sec. 29.18.200. SELECTION PROCEDURE. (a) All selections must  
2 be made in reasonably compact tracts, taking into account the situation  
3 and potential uses of the land involved. The authority to make selec-  
4 tions may not be alienated or bargained away, in whole or in part,  
5 by the borough or city.

6           (b) If land desired by the borough or city is unsurveyed at the  
7 time of its selection, the Department of Natural Resources shall survey  
8 or approve a survey by the borough or city of the exterior boundaries  
9 of the area requested without interior subdivision and shall issue a  
10 patent for the selected area in terms of the exterior boundary survey.  
11 The cost of survey is borne by the borough or city. If land desired  
12 by the borough or city has been surveyed at the time of its selection,  
13 the boundaries of the areas requested must conform to the public land  
14 subdivisions established by the approval of the survey. Land selected  
15 by the borough or city under this chapter is patented to the borough  
16 or city by the Department of Natural Resources.

17           (c) After the selection of the land by the borough or city but  
18 before the issuance of final patent, the borough or city may execute  
19 conditional leases and make conditional sales of selected land.

20           CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES.

21           ARTICLE 1. BOROUGH ASSEMBLY.

22           Sec. 29.23.010. GENERAL POWER. The legislative power of a  
23 borough is vested in the assembly.

24           Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTIONMENT.

25           (a) The assembly of a borough is composed of the number of seats  
26 shown on the following table:

Population	Assembly Seats
under 6,000	5
6,000 - 12,000	7

1  
2  
3  
4  
5  
6  
7  
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12,001 - 30,000	9
over 30,000	11

(b) If there is one home rule or first class city in the borough, the assembly is composed of at least one assemblyman from the home rule or first class city.

(c) The assembly seats are apportioned as follows: Except as provided in (b) of this section, each home rule or first class city has the number of seats designated in the following table, unless a lesser number is approved by a resolution of the council of the city concerned:

Population	Assembly Seats
under 2,000	1
2,000 - 6,000	2
6,001 - 12,000	3
12,001 - 30,000	4
over 30,000	5

(d) The area outside home rule and first class cities within the borough has a number of assemblymen equal to one more than the total number of all assemblymen who represent home rule and first class cities.

Sec. 29.23.03C. ELECTION AND APPOINTMENT. Members of the assembly are appointed or elected according to the apportionment determined by the incorporation petition approved by the voters until the assembly is reapportioned. Members representing home rule and first class cities are appointed by and from the city councils, unless provided otherwise by city charter or ordinance. Members representing the area outside home rule and first class cities are elected.

Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs a regular election is held annually on the first Tuesday of October, unless a different date or interval of election is provided by ordinance to choose

1 assemblymen from outside home rule and first class cities for three-year  
2 terms and until their successors are elected and have qualified. The  
3 regular term begins on the first Monday following the regular borough  
4 election. City councilmen on the assembly may not be replaced by the  
5 council unless their assembly term expires as provided by city charter  
6 or ordinance, or they cease to be a member of either the assembly or  
7 the council. The assembly may provide for different terms by ordinance,  
8 but they may not exceed four years. The current term of incumbent  
9 assemblymen may not be altered.

10 Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is  
11 eligible to be an assemblyman if he is a borough voter. An assemblyman  
12 who ceases to be a borough voter immediately forfeits his office. If  
13 an assemblyman elected from an area outside home rule and first class  
14 cities or from a section becomes a resident of a home rule or first  
15 class city or another section he may continue to serve only until the  
16 next regular election. The assembly may by ordinance establish resi-  
17 dency requirements for assemblymen elected from outside home rule and  
18 first class cities not exceeding three years.

19 Sec. 29.23.060. PROCEDURE. (a) The assembly shall meet at  
20 least once every month, unless otherwise provided by ordinance. All  
21 meetings shall be public meetings. Special meetings may be held on the  
22 call of the chairman, the presiding officer, or one-third of the members,  
23 upon not less than 24 hours written or oral notice communicated to each  
24 member. In an emergency a special meeting shall be a legal meeting if  
25 all members are present or there is a quorum and all absent members  
26 have waived in writing the required notice. A waiver may be either  
27 before or after the time of the meeting. The waiver shall be attached  
28 to and made a part of the journal for that meeting.

29 (b) The assembly shall elect from among its members a presiding

1 officer and a deputy presiding officer to serve at its pleasure, except  
2 that in manager plan boroughs the borough mayor serves as presiding offi-  
3 cer. If the presiding officer is not present or disqualifies himself,  
4 the deputy presiding officer shall preside.

5 (c) The assembly shall determine its own rules and order of  
6 business and provide for keeping a journal of its proceedings.

7 (d) A majority of the membership authorized by law constitutes a  
8 quorum. In the absence of a quorum, any number less than a quorum may  
9 recess or adjourn the meeting to a later date. Actions of the assembly  
10 are adopted by a majority of the votes authorized on the question. All  
11 assemblymen present shall vote unless the assembly for special reasons  
12 permits a member to abstain, except no assemblyman may vote on a question  
13 in which he has a substantial direct or indirect financial interest.

14 (e) The final vote on each ordinance, resolution, or substantive  
15 motion is a recorded "yes" or "no", except that if the vote is unani-  
16 mous it is necessary only so to state.

17 (f) When the borough assembly votes on an ordinance or resolution  
18 in exercising an areawide power and when it votes on the areawide  
19 budget, the votes are weighted to enable the assemblymen who represent  
20 a majority of the borough's population to have a majority of the  
21 votes. Weighted voting applies to all procedures and votes affecting  
22 the final outcome of the ordinance or resolution.

23 (g) The weight to be given to each vote cast by the assemblymen  
24 present and voting who represent a home rule or first class city which  
25 has a majority of the population is determined by dividing the number  
26 of all assembly seats apportioned to the area outside the city plus one  
27 by the number of seats apportioned to the city.

28 (h) The weight to be given to each vote cast by assemblymen  
29 present and voting who represent home rule and first class cities

1 which have a combined majority of the borough's population is determined  
2 by dividing the number of all assembly seats apportioned to the area  
3 outside cities plus one by the number of all assembly seats apportioned  
4 to the home rule and first class cities.

5 (i) If the area outside home rule and first class cities has the  
6 majority of the borough's population, each assemblyman present and  
7 voting has one vote.

8 (j) Fifty borough voters or a home rule or first class city in a  
9 borough may petition the assembly or the Local Affairs Agency, or the  
10 assembly may petition the agency, to determine from U. S. Bureau of  
11 the Census reports or other reliable information whether the votes of  
12 the assemblymen representing a home rule or first class city shall be  
13 weighted. The petition shall include evidence to indicate that weighted  
14 voting should or should not be used. A determination by the Local  
15 Affairs Agency prevails over one by the assembly. A determination by  
16 either the assembly or the agency is effective immediately, subject to  
17 judicial review for abuse of discretion.

18 Sec. 29.23.070. DEPARTMENTS. (a) The assembly may establish  
19 departments and distribute administrative functions among them.

20 (b) Each department is administered by a department head. With  
21 the consent of the assembly, the borough mayor may serve as the head of  
22 one or more departments or may appoint one person as the head of two  
23 or more departments.

24 Sec. 29.23.080. ASSEMBLY VACANCIES. (a) The assembly shall  
25 provide by ordinance the manner in which a vacancy in assembly represen-  
26 tation occurs.

27 (b) A vacancy in the city council representation on the assembly  
28 is filled by a councilman designated by a majority of the remaining  
29 membership of the council to serve until the next regular election.

1 (c) A vacancy in the representation for the area outside a home  
2 rule or first class city is filled by a majority of the remaining  
3 assemblymen representing the area outside home rule and first class  
4 cities, who designate a voter residing outside home rule and first  
5 class cities, and if there are borough sections established, a resident  
6 of the borough section from which he will serve, to serve until the  
7 next regular election.

8 Sec. 29.23.090. REAPPORTIONMENT. (a) The assembly of home rule  
9 and general law boroughs shall be reapportioned by either of the  
10 following methods:

11 (1) The assembly shall reapportion itself when the appor-  
12 tionment does not meet the standards provided in sec. 20 of this  
13 chapter. The proposal must be submitted to the Local Affairs Agency  
14 for review.

15 (2) Fifty borough voters or a home rule or first class city  
16 in a borough may petition the assembly or the Local Affairs Agency to  
17 reapportion the assembly. The petition must include evidence that the  
18 apportionment of the assembly does not meet prescribed standards. If  
19 it is found from U. S. Bureau of the Census reports or other reliable  
20 information that the standards are not met, the assembly or the Local  
21 Affairs Agency shall reapportion the assembly. A reapportionment by  
22 the Local Affairs Agency prevails over one by an assembly. Reapportion-  
23 ment by the assembly or the agency is subject to judicial review for  
24 abuse of discretion.

25 (b) A reapportionment is effective beginning with the next  
26 regular election to the assembly. If reapportionment results in an  
27 increase of representation on the assembly, the assembly may determine  
28 that the reapportionment is effective before the next regular election.  
29 If the assembly makes this determination, the additional seats are

1 filled as prescribed in sec. 80(a) and (b) of this chapter for filling  
2 vacancies, except that additional seats outside home rule and first  
3 class cities may be filled without regard to sections.

4 Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough assembly may,  
5 by ordinance adopted without weighted voting, establish, alter, or abol-  
6 ish sections for the election of assemblymen in the area outside home  
7 rule and first class cities, except that sections may not be abolished  
8 unless a majority of the assemblymen outside home rule and first class  
9 cities approve. If it establishes sections, members representing the  
10 area outside home rule and first class cities represent the sections in  
11 which they reside. The ordinance must state whether assemblymen are  
12 elected by all voters outside home rule and first class cities or only  
13 by the voters of the section in which they reside. The number of sec-  
14 tions equals the number of assemblymen representing the area outside  
15 home rule and first class cities. Section boundaries are established  
16 in such a way as to provide, insofar as possible, clarity of boundaries,  
17 compactness of an area, approximately equal population representation  
18 among sections, and homogeneity of interest.

19 (b) Borough sections shall be reapportioned in the manner pre-  
20 scribed in sec. 90 of this chapter for reapportionment of the assembly.

21 ARTICLE 2. BOROUGH EXECUTIVE AND ADMINISTRATOR.

22 Sec. 29.23.130. POWER GENERALLY. (a) If the borough has not adopted a manager  
23 plan, the borough executive and administrative power is vested in an elected borough  
24 mayor. If the borough has adopted a manager plan, the administrative power is vested in  
25 an appointed manager and the executive power in an elected borough mayor who has the same  
26 functions as those of the mayor of a manager-plan city under sec. 240 of this chapter.

27 (b) A borough voter is eligible to be borough mayor.

28 (c) The borough mayor's regular term of office is three years  
29 and until a successor is elected and has qualified and begins on the

1 first Monday following his election, which is held the first Tuesday  
2 of October, unless a different date of election is provided by ordinance.  
3 The assembly may provide by ordinance for a different term not to exceed  
4 four years, except that the current term of an incumbent borough mayor  
5 may not be altered.

6 (d) A borough may adopt or abandon a manager plan at any time, as  
7 provided in secs. 410 - 480 of this chapter. The borough mayor may not  
8 veto an ordinance or resolution calling for an election on this question.  
9 The manager has all the powers and duties of the borough mayor as chief  
10 administrative officer. If the manager plan is adopted, it becomes effective  
11 following certification of the results of the first regular election  
12 occurring at least six months after adoption of the plan. The borough  
13 mayor then serves as borough executive.

14 Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH ADMINISTRATOR. The  
15 borough mayor or manager as the case may be, as the chief administrative  
16 officer, is responsible for the proper administration of all borough  
17 affairs. The mayor or manager of the borough shall

18 (1) appoint borough employees and administrative officers,  
19 except as provided otherwise in sec. 360 of this chapter and AS 29.33.-  
20 050; he may hire necessary administrative assistants and may authorize  
21 an appointive administrative officer to appoint, suspend, or remove  
22 subordinates in his department;

23 (2) suspend or remove by written order borough employees and  
24 administrative officers, except as provided otherwise in sec. 360 of  
25 this chapter and AS 29.33.050;

26 (3) supervise enforcement of borough law;

27 (4) prepare the annual budget and capital improvements pro-  
28 gram for the assembly;

29 (5) execute the budget and capital improvement program as adopted;

1 (6) make monthly reports to the assembly on borough finances  
2 and operations;

3 (7) report to the assembly at the end of each fiscal year  
4 on the finances and administrative activities of the borough;

5 (8) prepare and make available for public distribution an  
6 annual report on borough affairs;

7 (9) serve as borough personnel officer unless the assembly  
8 authorizes him to appoint a personnel officer;

9 (10) direct and supervise the administration of

10 (A) the functions of all borough officers and employees  
11 except as provided otherwise in this title;

12 (B) the care and custody of all borough buildings and  
13 of all real and personal property of the borough, except as pro-  
14 vided otherwise by AS 29.33.050;

15 (C) the construction, maintenance, and operation of all  
16 borough roads, bridges, drains, buildings and other public works;

17 (11) execute other powers or duties specified in this title  
18 or lawfully prescribed by the assembly.

19 Sec. 29.23.150. EXECUTIVE ABSENCE. The borough mayor, subject  
20 to assembly approval, shall designate a person to act as mayor  
21 during the mayor's temporary absence or disability. If a manager  
22 plan has been adopted, the assembly shall designate by resolution a  
23 borough administrative officer to act as manager during his absence  
24 or disability.

25 Sec. 29.23.160. ASSEMBLY PARTICIPATION. The borough mayor  
26 may take part in the discussion of all matters before the assembly  
27 but may not vote.

28 Sec. 29.23.170. VETO. (a) Except as provided in (b)  
29 of this section, the borough mayor may veto any ordinance,

1 resolution, motion or other action of the assembly and may, by veto,  
2 strike or reduce items in appropriation ordinances except for school  
3 budget items. He shall submit to the assembly at its next regular  
4 meeting a written statement advising of his veto and giving his reasons.  
5 His veto may be overridden by two-thirds of all the votes to which the  
6 assembly is entitled on the question.

7 (b) The borough mayor may not veto actions of the assembly taken under  
8 sec. 130(d) of this chapter or actions of the board of equalization and  
9 the board of adjustment.

10 Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office  
11 of the borough mayor occurring within six months of a regular elec-  
12 tion shall be filled by the assembly. The person designated shall serve  
13 until the next regular election and until a successor is elected and has  
14 qualified. If an assemblyman is chosen, he shall resign his assembly  
15 seat. If a vacancy occurs more than six months before a regular election,  
16 the assembly shall call a special election to fill the unexpired term.

### 17 ARTICLE 3. CITY COUNCIL

18 Sec. 29. 23.200. COMPOSITION, ELIGIBILITY, ELECTION AND TERM.

19 (a) Each first class city has a council of six members elected by the  
20 voters at large. Each second class city has a council of seven members  
21 elected by the voters at large. The council of a first or second class  
22 city may by ordinance provide for election of members other than on  
23 an at large basis for all members.

24 (b) A city voter is eligible to hold the office of councilman.  
25 A council member who ceases to be eligible to be a city voter immedi-  
26 ately forfeits his office.

27 (c) An election is held annually on the first Tuesday of October,  
28 unless a different election date or interval of years is provided by  
29 ordinance, to choose councilmen for three-year terms and

1 until their successors are elected and have qualified. The regular  
2 term of office begins on the first Monday following the election.  
3 The council may provide by ordinance for different terms not to exceed  
4 four years, except that the current term of incumbent councilmen may  
5 not be altered.

6 Sec. 29.23.210. PROCEDURE. (a) The council shall meet at least  
7 once every month, unless otherwise provided by ordinance. Special  
8 meetings may be held on the call of the mayor or two councilmen upon  
9 not less than 24 hours written or oral notice communicated to each  
10 member.

11 (b) The council shall determine its own rules and order of  
12 business and provide for keeping a journal of its proceedings.

13 (c) Four councilmen constitute a quorum. Four affirmative votes  
14 are required for the passage of an ordinance, resolution, or motion.

15 (d) The final vote on each ordinance, resolution, or substantive  
16 motion is a recorded roll call vote. All councilmen present shall  
17 vote unless the council, for special reasons, permits a member to  
18 abstain.

19 Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs in the  
20 council, the council by vote of a majority of its remaining members  
21 shall designate a person to fill the vacancy until the next regular  
22 election, and until a successor is elected and has qualified.

23 ARTICLE 4. CITY EXECUTIVE AND ADMINISTRATOR.

24 Sec. 29.23.240. MAYOR. Each city has a mayor as executive who shall preside  
25 at council meetings, act as ceremonial head of the city, and sign docu-  
26 ments on the city's behalf upon council authorization. In cities  
27 which have not adopted a manager plan, the mayor is responsible for  
28 the duties listed in sec. 290 of this chapter.

29 Sec. 29.23.250. ELECTION AND TERM OF MAYOR. (a) A voter of a

1 home rule or general law city is eligible to hold the office of mayor,  
2 except that a home rule city may prescribe additional residency  
3 requirements by charter.

4 (b) The mayor of a first class city is elected at large for a  
5 term of three years and until a successor is elected and has qualified.  
6 The council may provide by ordinance for a different term not to  
7 exceed four years, except that the current term of an incumbent mayor  
8 may not be altered.

9 (c) The mayor of a second class city is elected by and from the  
10 council for a term equal in length to a councilman's term.

11 (d) The mayor's regular term begins on the first Monday following  
12 his election, which is held on the first Tuesday of October, unless a  
13 different date of election is provided by ordinance. The council of a  
14 second class city shall meet on the first Monday after the regular elec-  
15 tion date and elect a mayor who takes office immediately.

16 Sec. 29.23.260. MAYOR'S VOTE. (a) The mayor of a first class  
17 city is not a council member and may vote only in the case of a tie.

18 (b) The mayor of a second class city is a council member and  
19 may vote on all matters.

20 Sec. 29.23.270. VETO. (a) The mayor of a first class city may  
21 veto any ordinance, resolution, motion, or other action of the council  
22 and may, by veto, strike or reduce items in appropriation ordinances  
23 except, in a city outside an organized borough, for school budget  
24 items. He shall submit to the council at its next regular meeting a  
25 written statement advising of his veto and giving his reasons. A veto  
26 is overridden by the vote of two-thirds of the authorized membership  
27 of the council.

28 (b) The mayor of a second class city has no veto power.

29 Sec. 29.23.280. FILLING A VACANCY. (a) In a first class city,

1 a vacancy in the office of mayor occurring within six months of a regu-  
2 lar election shall be filled by the council. The person designated shall  
3 serve until the next regular election and until a successor is elected  
4 and has qualified. If a councilman is chosen, he shall resign his coun-  
5 cil seat. If a vacancy occurs more than six months before a regular elec-  
6 tion, the council shall call a special election to fill the unexpired  
7 term.

8 (b) In a second class city, a vacancy in the office of mayor is  
9 filled by and from the council.

10 Sec. 29.23.290. POWERS AND DUTIES OF CITY MANAGER. If the city  
11 has a manager, he is the chief administrative officer. The manager shall

12 (1) appoint city employees and administrative officers,  
13 except as provided otherwise in sec. 360 of this chapter and AS 29.33.-  
14 050; he may hire necessary administrative assistants and may authorize  
15 an appointive administrative officer to appoint, suspend, or remove  
16 subordinates in his department;

17 (2) suspend or remove by written order city employees and  
18 administrative officers, except as provided otherwise in sec. 360 of  
19 this chapter and AS 29.33.050;

20 (3) supervise enforcement of city law;

21 (4) prepare the annual budget and capital improvement  
22 program for the council;

23 (5) execute the budget and capital program as adopted;

24 (6) make monthly financial reports to the council on city  
25 finances and operations;

26 (7) report to the council at the end of each fiscal year  
27 on the finances and administrative activities of the city;

28 (8) prepare and make available for public distribution an  
29 annual report on city affairs;