

ALASKA LEGISLATURE COMMITTEE FILES 1971-1972 8672  
78.9 FREE CONF. COMM RE: MUNICIPAL CODE REVISION, HB 208/SB 113 177

a proposed ordinance to be held on the same day as regular meetings page 69, line 1 (Sec. 29.48.140). The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances page 70, line 12 (Sec. 29.48.180). Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190). page 71, line 3

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250). page 72, line 14

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.- page 74, line 7 48.270). The thinking is that should a disaster strike the classification of the city is not particularly relevant.

#### Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and use taxes but not property taxes (Sec. 29.53.400). page 58, lines 8-10 page 92, line 20 page 100 line 25 Within a borough the borough collects all of the taxes, provided the borough itself levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself page 94, line 2 (Sec. 29.53.450). Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough <sup>page 93, line 27-29</sup> (Sec. 29.53.440). (This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes <sup>page 75, line 7</sup> (Secs. 29.53.010 - <sup>page 92, line 20</sup> 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law <sup>page 8, line 13</sup> (Sec. 29.13.100(19)). Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. Opin. No. 647, November 2, 1970).

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

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

Comparison of CSSB 113 and existing law

Page fourteen

interest on bonded indebtedness page 79, line 10 (Sec. 29.53.050). Property taxes for other purposes may not exceed three per cent of the assessed property valuation per year, including the combined levy of such taxes within page 79, line 13-15 a city by a borough and the city within the borough (Sec. 29.53.050).

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

Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property deeded to the city not be needed for public use by the city but needed for public use by the borough, the borough may obtain such property. The same holds true for property deeded to the borough. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.- page 80, line 13 page 91, line 27 360 and 29.53.385).

Under present law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under the code both a sales tax and use tax may be levied. The code requires an election on sales tax. Since use tax is a correlative of the sales tax and can only be adopted subsequent to or at a referendum where the sales tax is adopted, no separate election is required for adoption of page 93, line 3 page 93, line 18 the use tax (Secs. 29.53.410 and 29.53.420).

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405). page 92, line 26

#### Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in page 94, line 14 page 94, line 29 anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040).

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. page 96, line 26 29.58.160). Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default page 100, line 25 (Sec. 29.58.350), essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved page 98, line 5 (Sec. 29.58.205). In boroughs if the full faith and credit of

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

Chapter 63. Special Assessment and Service Areas

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

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

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. page 101, line 6 29.63.010). The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

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

Comparison of CSSB 113 and existing law

Page seventeen

annexation and exclusion by local action page 113, line 8  
(Sec. 29.68.010).

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election page 100, line 2  
(Sec. 29.68.030).

Unification of local governments is authorized as under present page 110, line 15 page 119, line 6  
law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically page 115, line 8 page 118, line 10  
than under present law (Secs. 29.68.350(a)(1) and 29.68.410).

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.-  
page 119, line 11  
68.500(a)). In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500). page 119, line 22

#### Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). page 121, line 23

#### THE CODE IN GENERAL

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

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

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

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. page 3, line 16 (Sec. 29.08.040)

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. page 8, line 29 (Sec. 29.18.020)

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of \$10 per voter. The minimum grant will be \$25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-180) page 14, line 23

In selecting lands under the Alaska Statehood Act, it is the policy of the state to make available to boroughs and cities the maximum land area from which to make selections under this section, consistent with the best interests of the state. page 15, line 19 (Sec. 29.18.190)

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. page 17, line 27 (Sec. 29.23.040, page 25, line 28 page 29, line 7 Sec. 29.23.200, and Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the unorganized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. (Sec. 29.23.170) page 24, line 28

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. (Sec. 29.23.200) page 25, lines 22-24

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. page 33, line 29 (Sec. 29.23.560) page 34, line 6-10

A qualified voter contesting an election will bear the costs of a recount unless the result of the election is reversed by the recount. (Sec. 29.28.050) page 36, line 8

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee. (Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. page 58, line 4 (Sec. 29.43.020, page 75, line 7 to page 89, line 23 and page 92, line 20 Sec. 29.53.010-29.53.350 and Sec. 29.53.400)

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

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020) page 59, line 26

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033) page 61, line 12

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power page 62, line 14 by transfer from cities or by areawide vote. (Sec. 29.48.035)

Grandfather clause page 64, line 1

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a) ) page 71, line 3

The property tax exemptions or exclusions required of all municipalities under present law are retained. page 75, line 13 (Sec. 29.53.020)

General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. (Sec. 29.53.025) page 76, line 18

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. page 77, line 7 (Sec. 29.53.025 (c) )

Existing law on valuation of farm land for property tax purposes is added. (Sec. 29.53.035) page 78, line 4

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050) page 79, line 10

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.53.340 (d) ) page 100, line 17

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

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. page 101, line 6 (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special page 104, line 5 page 105, line 13 assessment bonds is added. (Sec. 29.63.060 and Sec. 29.63.065)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions page 106, line 9 clarify existing law. (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. (Sec. 29.53.405) page 92, line 26

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. (Sec. 29.68.010 (b) ) page 107, line 15

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is delineated more fully than in existing law. page 115, line 8 (Sec. 29.68.350 (a) (1) and Sec. 29.68.410) page 118, line 10

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

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Original sponsor: Local Government  
Committee

Offered: 4/12/71  
Referred: Rules

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IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

Since CS FOR HOUSE BILL NO. 208 is identical to  
CS FOR SENATE BILL NO. 113 (which has been printed  
and distributed - a 125 page bill) copies of  
CS FOR HOUSE BILL NO. 208 will not be mailed or  
distributed.

MUNICIPAL CODE

April 12, 1971

TO: Members of the Legislature and other recipients of CSSB 113 or CSHB 208 (municipal code)

The following typographical changes to "Comparison of CSSB 113 and Existing Municipal Law", one of three attachments accompanying the bill (and appearing with the other attachments after the bill index), are called to your attention:

- Page 5: On the last line, the phrase ", who then" should be deleted and replaced with ". The"
- Page 6: On the fifth line from the bottom of the page, the word "four" should read "three"
- Page 6: On the last line of the page, the reference to "29.23.340" should be deleted.
- Page 9: The reference to "Sec. 29.48.025" should read "Sec. 29.48.-035"
- Page 16: Before the first line on the page the following words should be added: "the borough is pledged for the debt of the borough"
- Page 16: The reference to "Sec. 29.58.340(d)" should read "Sec. 29.58.340(b)"

These corrections have been incorporated in the attachments to the bill as they appear in the House Journal of this date.

A M E N D M E N T

IN THE HOUSE

BY THE LOCAL GOVERNMENT COMMITTEE

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

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

Sec. 29.33.050. EDUCATION. Each borough constitutes a borough school district and establishes, maintains and operates a system of public schools on an areawide basis as provided in AS 14.14.060.

Page 58, line 13: Strike "shall"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Original sponsor: Local Government Committee

Offered: 4/22/71  
Referred: Rules

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IN THE HOUSE

BY THE LOCAL GOVERNMENT COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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CSHB 208 am, with the attached certified amendments comprise SENATE CS FOR CS FOR HOUSE BILL NO. 208

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CS FOR HOUSE BILL NO. 208 was not printed and distributed because of its length and because it is identical to CS FOR SENATE BILL NO. 113.

Engrossment of CS FOR HOUSE BILL NO. 208 am was waived and certified copies of the amendment only were printed. To examine CSHB 208 am, refer to CSSB 113 and incorporate the House amendment.

Engrossment of SCS CSHB 208 am S was waived and certified amendments are attached.

78

AMENDMENTS

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: SCS FOR CSHB NO. 208 am S

Page 3, line 7: Strike "second" and substitute "third"

Page 7, lines 19 - 20: Remove all matter and reinsert at page 7, between lines 22 - 23; renumber paragraphs accordingly

Page 8, line 2: Strike "295" and substitute "290(c)"

Page 8, line 6: Strike "43" and substitute "48"

Page 8, line 16: After the last matter on the line insert "29.53.410(d) (interest on sales tax)"

Page 15, line 2: After the word "incorporated" insert "after January 1, 1968"

Page 17, line 27: Strike "an election" and substitute "a regular election"

Page 25, line 28: Strike "every year"

Page 29, line 21: Strike "as" and substitute "or"

Page 36, line 22: Strike "reverses" and substitute "fails to reverse"

Page 49, lines 8 - 9: Strike all matter

Page 55, line 4: After "Agency." strike all matter on line 4 and substitute the following:

"The vote on the question of adding an areawide power shall be tabulated in two separate classifications. One shall consist of all votes cast in the home rule and first class cities of the borough. The other shall consist of all votes cast in the remaining borough area. If the majority of the votes cast in each classification is"

Page 55, line 24: Strike "section" and substitute "subsection"

Page 59, line 20: Strike all matter and substitute the following:

(9) to acquire, manage, control, use and dispose of real and personal property for a purpose authorized under this title, federal law, or other law, or in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries;

Page 65, line 15: Strike "general" and substitute "regular"

Page 71, lines 3 - 5: Remove all of paragraph (a);  
reletter following paragraphs accordingly

Page 73, line 12: Strike "general" and substitute  
"regular"

Page 79, lines 10 - 15: Strike all matter and substitute  
the following:

Sec. 29.53.050. TAX LIMITATION. No municipality  
may levy and tax for any purpose in excess of three  
per cent of the assessed valuation of property within  
the municipality in any one year.

Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY  
BONDS. The limitation provided for in sec. 50 of this  
chapter does not apply to taxes levied or pledged  
to pay or secure the payment of the principal and  
interest on bonds. Taxes to pay or secure the payment  
of principal and interest on bonds may be levied without  
limitation as to rate or amount.

Page 84, line 18: Before "If" insert "(a)"

Page 85, between lines 9 - 10: add the following new matter:

(b) If the assembly imposes a penalty for the  
nonpayment of property taxes when due, or the late  
return of personal property assessment forms, the rate  
of penalty or combined rates of penalty may not exceed  
10 per cent of the tax due on the property concerned.

(c) If the assembly charges interest on property  
taxes not paid when due, the rate of interest may not  
exceed eight per cent a year upon the delinquent taxes  
and shall be charged from the due date until  
paid in full.

Page 89, line 15: After "the" insert "payment represented  
by"

Page 92, line 12: After "taxpayer" insert "with interest  
at eight per cent from the date of payment plus costs"

Page 92, line 16: After "taxpayer" insert "with interest at  
eight per cent from the date of payment"

Page 93, between lines 1 and 2, add the following new matter:

Sec. 29.53.410. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS CITIES. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

Page 93, line 3: Delete "410" and substitute "415"

Page 93, between lines 17 - 18: Add the following new matter:

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed eight per cent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

Page 100, line 13: Strike "; payment" and substitute "." and make a paragraph "(b) Payment,"

Page 100, line 14: Strike "service area" and substitute "area incurring the debt under (a)(2) or (a)(3) of this section"

Page 100, line 17: Strike "(b)" and substitute "(c)"

Page 100, lines 25 - 29: Delete all matter.

Page 101, lines 1 - 3: Delete all matter.

Page 106, line 19: After "question" insert "at a regular or special election"

Page 115, line 4: Strike "general" and substitute "regular"

Page 116, line 21: After "circulation" insert "distributed"

81

Page 116, line 22: After "circulation" insert  
"distributed"

Page 125, line 29: Add the following new matter and  
renumber following sections accordingly:

\* Sec. 6. AS 38.05 is amended by adding a new section  
to read:

Sec. 38.05.038. LIMITED PLATTING AUTHORITY IN  
THE UNORGANIZED BOROUGH. The division shall be the  
platting authority in the area outside organized  
boroughs and outside cities in the unorganized borough  
for only the purposes of hearing and acting on  
petitions for the change or vacation of plats and  
shall execute this function substantially in conformity  
with the provisions of AS 29.33.200 - 29.33.240 govern-  
ing platting boards within cities and organized boroughs.  
Costs of publication and mailing as well as other costs  
authorized in AS 29.33.210 shall be paid to the division  
by the petitioner. The department shall adopt  
reasonable regulations governing the exercise of  
the authority conferred by this section upon the  
division.

82

TECHNICAL AMENDMENTS TO BE MADE BY LEGISLATIVE AFFAIRS  
IN THE SENATE

TO: SCS FOR CSHB NO. 208 am

Page 7, line 28: After ".020" insert "(b)"

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

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

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

Page 23, line 1: Strike "in November"

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

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

Page 29, line 8: Strike "municipal"

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

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

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

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

Page 123, line 24: Strike "Tuesday following the first Monday in November" and substitute "first Tuesday of October"

37

INDEX

CS FOR SENATE BILL NO. 113  
TITLE 29. MUNICIPAL GOVERNMENT

TABLE OF CONTENTS

<u>SECTIONS</u>	<u>PAGE</u>
CHAPTER 03. THE UNORGANIZED BOROUGH .....	1
29.03.010 Establishment .....	1
29.03.020 Service Areas .....	1
CHAPTER 08. CLASSIFICATION OF MUNICIPALITIES .....	1
29.08.010 Home Rule .....	1
29.08.020 General Law .....	2
29.08.030 Classes of General Law .....	2
29.08.040 Reclassification .....	2
29.08.050 Transition .....	4
CHAPTER 13. HOME RULE MUNICIPALITIES .....	5
Article 1. Charters .....	5
29.13.010 Municipal Charter Adoption .....	5
29.13.020 Nomination .....	5
29.13.030 Election .....	5
29.13.040 Preparation of Charter .....	5
29.13.050 Initiative and Referendum .....	6
29.13.060 Charter Election .....	6
29.13.070 Charter Adoption .....	6
29.13.080 Charter Amendment .....	7
Article 2. Home Rule Limitations .....	7
29.13.100 Limitation of Home Rule Powers .....	7
CHAPTER 18. INCORPORATION .....	8
Article 1. Requirements .....	8
29.18.010 First Class Cities .....	8
29.18.020 Second Class Cities .....	8
29.18.030 Organized Boroughs .....	9
Article 2. Procedures .....	9
29.18.050 Petition .....	9
29.18.060 Review .....	10
29.18.070 Investigation .....	10
29.18.080 Report and Hearing .....	10
29.18.090 Decision on Borough Incorporation .....	11
29.18.100 Decision on City Incorporation .....	11
29.18.110 Incorporation Election .....	11
29.18.120 Election of Initial Officers .....	12
29.18.130 Integration of Special Districts and Service Areas .....	13

29.18.140	Transition .....	14
29.18.150	Challenge of Legality .....	14
Article 3.	Borough Transitional Assistance .....	14
29.18.180	Organization Grants .....	14
29.18.190	State Land .....	15
29.18.200	Selection Procedure .....	16
CHAPTER 23.	MUNICIPAL OFFICERS AND EMPLOYEES .....	16
Article 1.	Borough Assembly .....	16
29.23.010	General Power .....	16
29.23.020	Standards for Composition and Apportionment .....	16
29.23.030	Election and Appointment .....	17
29.23.040	Regular Term of Office .....	17
29.23.050	Qualifications .....	18
29.23.060	Procedure .....	18
29.23.070	Departments .....	20
29.23.080	Assembly Vacancies .....	20
29.23.090	Reapportionment .....	21
29.23.100	Borough Sections .....	22
Article 2.	Borough Executive .....	22
29.23.130	Executive Power .....	22
29.23.140	Powers and Duties of Borough Executive .....	23
29.23.150	Executive Absence .....	24
29.23.160	Assembly Participation .....	24
29.23.170	Veto .....	24
29.23.180	Filling a Vacancy .....	25
Article 3.	City Council .....	25
29.23.200	Composition, Eligibility, Election and Term .....	25
29.23.210	Procedure .....	26
29.23.220	Filling a Vacancy .....	26
Article 4.	City Executive .....	26
29.23.240	Mayor .....	26
29.23.250	Election and Term of Mayor .....	26
29.23.260	Mayor's Vote .....	27
29.23.270	Veto .....	27
29.23.280	Filling a Vacancy .....	27
29.23.290	Powers and Duties of City Manager ...	28
Article 5.	School Boards .....	29
29.23.310	Election .....	29
Article 6.	Utility Boards .....	29
29.23.340	Utility Boards .....	29

Article 7.	Other Officers and Employees .....	30
29.23.360	Appointment of Officers .....	30
29.23.370	Municipal Attorney .....	30
29.23.380	Municipal Clerk .....	30
29.23.390	Municipal Treasurer .....	31
Article 8.	Adoption or Repeal of Manager Plan .....	31
29.23.410	Application .....	31
29.23.420	Petition .....	31
29.23.430	Election .....	31
29.23.440	Adoption .....	32
29.23.450	Appointment .....	32
29.23.460	Term .....	32
29.23.470	Appointment of Temporary or New Manager .....	32
29.23.480	Repeal .....	32
Article 9.	Miscellaneous Provisions .....	32
29.23.500	Oaths of Office .....	32
29.23.510	Combining Offices .....	33
29.23.520	Bonding .....	33
29.23.530	Salaries of Elected Officers not to be Varied .....	33
29.23.540	Prohibitions .....	33
29.23.550	Personnel System .....	33
29.23.560	Reports .....	33
29.23.570	Vacancies .....	34
29.23.580	Meetings Public .....	34
CHAPTER 28.	ELECTIONS .....	35
Article 1.	Regular and Special Elections .....	35
29.28.010	Administration .....	35
29.28.015	Nominations .....	35
29.28.020	Election Dates .....	35
29.28.030	Voter Qualification .....	35
29.28.040	Majority Elections .....	36
29.28.050	Election Contest and Appeal .....	36
Article 2.	Initiative and Referendum .....	37
29.28.060	Reservation of Powers .....	37
29.28.062	Petition .....	37
29.28.065	Contests of Petition .....	37
29.28.070	Required Signatures .....	37
29.28.073	Sufficiency of Petition .....	38
29.28.075	Protest .....	38
29.28.077	New Petition .....	39
29.28.080	Presentation of Initiative .....	39
29.28.090	Presentation of Referendum .....	39
29.28.110	Effect .....	40

Article 3.	Recall .....	40
29.28.130	Recall .....	40
29.28.140	Grounds .....	41
29.28.150	Petition .....	41
29.28.160	Examination for Sufficiency .....	41
29.28.170	Supplemental Petition .....	41
29.28.180	New Petition .....	42
29.28.190	Submission .....	42
29.28.200	Election .....	42
29.28.210	Form of Recall Ballots .....	42
29.28.220	Election Procedure .....	42
29.28.230	Majority Required .....	42
29.28.240	Effect .....	42
29.28.250	Election of Successor .....	43
CHAPTER 33.	AREAWIDE BOROUGH POWERS AND DUTIES .....	43
Article 1.	Scope .....	43
29.33.010	Scope of Areawide Powers .....	43
Article 2.	Assessment and Collection of Taxes .....	43
29.33.030	Assessment and Collection .....	43
Article 3.	Education .....	43
29.33.050	Education .....	43
Article 4.	Planning, Platting and Zoning .....	45
29.33.070	Planning, Platting and Zoning .....	45
29.33.080	Planning Commission .....	45
29.33.085	Comprehensive Plan .....	47
29.33.090	Zoning .....	47
29.33.110	Board of Adjustment .....	48
29.33.120	Adjustment Procedure .....	49
29.33.130	Judicial Review .....	49
29.33.150	Platting Jurisdiction and Power .....	50
29.33.160	Procedure .....	50
29.33.170	Waiver in Certain Cases .....	51
29.33.180	Information Required .....	51
29.33.190	Penalties .....	51
29.33.200	Alteration or Replat Petition .....	52
29.33.210	Notice of Hearing .....	52
29.33.220	Hearing and Determination .....	52
29.33.230	Recording .....	53
29.33.240	Title to Vacated Area .....	53
29.33.245	Hearing Officer .....	53
Article 5.	Additional Areawide Powers .....	54
29.33.250	Additional Areawide Powers .....	54
29.33.260	Transfer by City .....	54
29.33.270	Petition for Power .....	54
29.33.280	Investigation .....	54
29.33.290	Election .....	54



29.48.250	Centralized Purchasing .....	72
29.48.260	Municipal Properties .....	72
29.48.270	Emergency Disaster Powers .....	74
Article 5.	Construction of Powers .....	74
29.48.310	General Construction .....	74
29.48.320	Extent of Powers .....	74
29.48.330	Enumeration of Powers .....	75
CHAPTER 53.	MUNICIPAL ASSESSMENT AND TAXATION .....	75
Article 1.	Borough Property Tax .....	75
29.53.010	General Property Tax .....	75
29.53.020	Required Exemptions .....	75
29.53.025	Optional Exemptions and Exclusions ....	76
29.53.030	Mining Claims .....	77
29.53.035	Farm or Agricultural Lands .....	78
29.53.040	Mobile Homes .....	79
29.53.050	Tax Limitations .....	79
29.53.060	Full and True Value .....	79
29.53.070	Returns .....	79
29.53.080	Independent Investigation .....	80
29.53.090	Statement .....	80
29.53.100	Assessment Roll .....	80
29.53.110	Assessment Notice .....	81
29.53.120	Corrections .....	81
29.53.130	Appeal .....	82
29.53.135	Board of Equalization .....	82
29.53.140	Hearing .....	82
29.53.150	Supplementary Assessment Rolls .....	83
29.53.160	Tax Adjustments on Property Affected by a Natural Disaster .....	83
29.53.170	Tax Levy and Rate .....	84
29.53.180	Rates of Penalty and Interest .....	84
Article 2.	Enforcement of Tax Liens .....	85
29.53.200	Validity .....	85
29.53.210	Tax Liability .....	85
29.53.220	Enforcement of Personal Property Tax Liens by Distraint and Sale ....	85
29.53.230	Real Property Tax Collection .....	86
29.53.240	Foreclosure List .....	86
29.53.250	Clearing Delinquencies .....	87
29.53.260	List to Lienholder .....	87
29.53.270	General Foreclosure .....	87
29.53.280	Answer and Objection .....	87
29.53.290	Judgment .....	88
29.53.300	Transfer and Appeal .....	88
29.53.310	Redemption Period .....	88
29.53.320	Effect .....	89
29.53.330	Additional Liens .....	89
29.53.340	Possession During Redemption Period ...	89
29.53.350	Expiration .....	89
29.53.360	Deed to Borough or City .....	90
29.53.370	Sale of Foreclosed Properties .....	91
29.53.375	Repurchase by Record Owner .....	91

29.53.380	Proceeds of Tax Sale .....	91
29.53.385	Payment of Taxes Upon Public Utilization .....	91
29.53.390	Refund of Taxes .....	92
Article 3.	City Property Tax .....	92
29.53.400	Power of Levy .....	92
29.53.405	Differential Tax Zones .....	92
Article 4.	Borough Sales and Use Taxes .....	93
29.53.410	Sales and Use Tax .....	93
29.53.420	Referendum, Adoption and Modification .....	93
Article 5.	City Sales and Use Taxes .....	93
29.53.440	Power of Levy .....	93
29.53.450	Power of Levy and Collection .....	94
29.53.460	Combining Sales Tax with Incorporation .....	94
CHAPTER 58.	MUNICIPAL DEBT .....	94
Article 1.	Tax Anticipation Notes .....	94
29.58.010	Tax Anticipation Notes .....	94
29.58.020	Forms and Terms .....	94
29.58.030	Security .....	94
29.58.040	Sale of Notes .....	94
Article 2.	Bond Anticipation Notes .....	95
29.58.060	Bond Anticipation Borrowing .....	95
29.58.070	Issuance of Notes .....	95
29.58.080	Issuance of New Notes .....	95
29.58.090	Repayment of Notes .....	95
29.58.100	Security .....	96
29.58.110	Limitation .....	96
29.58.120	Use of Proceeds .....	96
29.58.130	Sale of Notes .....	96
Article 3.	General Obligation Bonds .....	96
29.58.150	General Obligation Bonds .....	96
29.58.160	Vote and Notice of Existing Indebtedness Required .....	96
29.58.170	Form and Terms of Sale .....	97
29.58.180	Payment .....	97
Article 4.	Revenue Bonds .....	97
29.58.200	Revenue Bonds .....	97
29.58.205	No Election Required .....	98
29.58.210	Forms and Terms .....	98
29.58.220	Payment .....	98
Article 5.	Refunding Bonds .....	98

29.58.240	Authorization .....	99
29.58.250	Effect of Bonds .....	99
29.58.260	No Election Required .....	99
29.58.270	Payment of Refunding Bonds .....	99
29.58.280	Sale .....	99
Article 6.	Miscellaneous Provisions .....	99
29.58.300	Public Sale .....	99
29.58.310	Interest Rate .....	100
29.58.320	Redemption Before Maturity .....	100
29.58.340	Borough Indebtedness .....	100
29.58.350	Intent .....	100
CHAPTER 63.	SPECIAL ASSESSMENTS AND SERVICE AREAS	101
Article 1.	Special Assessments .....	101
29.63.010	Assessment and Proposal .....	101
29.63.015	Procedure .....	101
29.63.020	Decision and Notice .....	102
29.63.025	Record Owner .....	103
29.63.030	Objections and Revision .....	103
29.63.040	Assessment Roll .....	103
29.63.050	Hearing and Settlement .....	104
29.63.060	Payment .....	104
29.63.070	Reassessment .....	104
29.63.080	Objection and Appeal .....	105
29.63.085	Special Assessment Bonds .....	105
Article 2.	Service Areas .....	106
29.63.090	Service Areas .....	106
CHAPTER 68.	ALTERATION OF BOUNDARIES .....	107
Article 1.	Annexation and Exclusion .....	107
29.68.010	Local Boundary Commission .....	107
Article 2.	Merger and Consolidation .....	108
29.68.030	Methods of Merger or Consolidation ..	108
29.68.040	Petition .....	108
29.68.050	Review .....	108
29.68.060	Investigation .....	108
29.68.070	Report and Hearing .....	108
29.68.080	Decision .....	109
29.68.090	Election .....	109
29.68.100	Assets and Liabilities .....	110
29.68.110	Ordinances .....	110
Article 3.	Unification of Local Governments .....	110
29.68.240	Unification of Local Governments Authorized .....	110
29.68.250	Unification to be Proposed by Petition .....	110
29.68.260	Petition Requirements .....	110
29.68.270	Review of Petition .....	112

29.68.280	Call for Charter Commission	
	Nominations .....	112
29.68.290	Nomination of Charter Commission	
	Candidates .....	112
29.68.300	Qualifications of Charter	
	Commission Candidates .....	112
29.68.310	Composition of Charter Commission ..	112
29.68.320	Election .....	113
29.68.330	Requirements for Approval of	
	Unification and Election of	
	Charter Commission .....	113
29.68.340	Charter Commission Organization	
	and Procedure .....	114
29.68.350	Charter Preparation .....	115
29.68.360	Public Hearings .....	116
29.68.370	Filing of Proposed Charter .....	116
29.68.380	Publication and Posting of	
	Proposed Charter .....	116
29.68.390	Election on Charter .....	117
29.68.400	Effect of the Charter After	
	Ratification .....	118
29.68.410	Assets and Liabilities .....	118
29.68.420	Ordinances .....	118
29.68.430	Right to State and Federal Funds	
	Preserved .....	119
29.68.440	Powers of a Unified Municipality ..	119
Article 4.	Dissolution .....	119
29.68.500	Methods of Dissolution .....	119
29.68.510	Petition .....	119
29.68.520	Standards .....	120
29.68.530	Review .....	120
29.68.540	Investigation .....	120
29.68.550	Report and Hearing .....	120
29.68.560	Decision .....	121
29.68.570	Election .....	121
29.68.580	Succession .....	121
CHAPTER 73.	MISCELLANEOUS PROVISIONS .....	121
29.73.020	Eminent Domain .....	121
29.73.030	Adverse Possession .....	121
29.73.040	Taxation of Municipalities .....	121
29.73.050	Change of Municipal Name .....	122
CHAPTER 78.	GENERAL PROVISIONS .....	122
29.78.010	Definitions .....	122

CSSB 113 & CSHB 208 -- THE PROPOSED REVISED MUNICIPAL CODE\*

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

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

Foreword and Synopsis of Attachments

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

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

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

93

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

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

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

1) provides for two classes of general law cities rather than four; p. 8, 27-29 & p. 9, 1 (transition: p. 4, 19-29 & p. 5, 1-3)

2) makes clear which provisions of the code apply to home rule local governments and which do not apply; a notable page 7, lines 19-29 & page 8, lines 1-24

- Page 7  
of bill



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9) expands eligibility for organization grants to second class cities newly incorporating or reclassifying to first class status and assuming school functions (outside boroughs); page 14, line

10) provides that the terms of office of city, borough and school board officials are two years but that any local government may by ordinance choose otherwise and provide different terms not exceeding four years (three years for school boards, as under page 17, line 27 present law); terms of incumbents are not affected, however; page 25, line 21 page 29, line 7

11) sets the date of the regular municipal election at page 124, lines 14- the same time as the date of the state general election (i.e. on the Tuesday after the first Monday of November); Same as 10) Above

will take into account Page 124

12) makes every local voter registered to vote in state elections eligible to vote in any municipal election, without being required also to meet separate municipal registration requirements; if not registered to vote with the state, he may vote in local page 35, line 27 elections upon meeting the local registration requirements if any; page 124, line 4

13) adds garbage and solid waste and water pollution control powers to the existing categories of powers which second class boroughs may exercise in the borough area outside cities without special voter approval; page 60, lines 6-7

14) gives cities authority to adopt and enforce building, housing and related codes within the cities rather than conferring such authority upon a borough as part of its required areawide planning, platting and zoning powers, as has been the interpretation under present law; page 63, lines 14-17

P28

15) requires no election in general law cities and boroughs to sell municipal revenue bonds unless the local government chooses by ordinance to require an election. page 98, line 5

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

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

*In present draft, an assumption  
of unanimous consent, no  
clear majority*

*f.*

S U M M A R Y

## COMPARISON OF CSSB 113 AND EXISTING MUNICIPAL LAW

INTRODUCTION

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

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

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

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

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

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

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

Chapter 3. The Unorganized Borough

*Present law*

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

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

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



# **CORRECTION**

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



themselves contain a specific reference making them applicable to home rule municipalities (Sec. 29.13.100). *page 7, line 14*

#### Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized (*page 9, line 20 / page 11, line 23*) (Secs. 29.18.050 - 29.18.110). The election of the first slate of officers is separated from the question of incorporation itself.

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities incorporating after the code takes effect. Organizational money grants based on an allocation of \$10 per voter are allowed the newly incorporating boroughs and cities of all classes, other than unifying or consolidating municipalities. A minimum grant of \$25,000 is authorized for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180). *page 14, line 28*

Under the revised code boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries. (*page 15, line 19 / page 16, line 1*) (Secs. 29.18.190 - 29.18.200). Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code provisions, consistent with the best interests of the state.

#### Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' election dates and terms of office are changed to conform to the date of state general elections, but terms of office may be varied by local ordinance so as to provide either staggered or simultaneously expiring terms up to four years (Secs. 29.23.040, *page 17, line 27* *page 25, line 28 / page 29, line 7* 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (*page 35, line 5* Sec. 29.28.010).

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

Additionally, a new authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the only power the assembly or council has is to approve or disapprove the total school budget, and the chairman or mayor may only veto that which the assembly or council has power to enact) (*page 24, line 38 / page 27, line 30* Secs. 29.23.170 and 29.23.270). The mayor of a second class city is a member of the council and has no veto power (*Page 27, line 28* Sec. 29.23.270(b)).

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then

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class  
11/14 of law*

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.23.270). <sup>page 27, line 16</sup> The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170). <sup>page 27, line 20</sup> <sup>page 24, line 25 / page 24, line 28</sup>

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

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). <sup>page 25, line 20</sup> 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). <sup>page 22, line 7</sup>

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). <sup>page 29, line 16</sup> (Elected boards only are authorized to general law municipalities under existing statutes.)

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding four years authorized by local ordinance, and local governing bodies are authorized to provide for centralized purchasing of those school supplies and equipment which are of a kind used by municipal departments (Sec. 29.48.250, and Secs. 29.23.310 and 29.23.340). <sup>page 29, line 7 / page 29, line 16</sup>

*DELETED*

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

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23-  
*page 31, line 16 / page 32, line 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).  
*page 33, line 25*  
*page 34, lines 6-10*

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law (Sec. 29.28.020).  
*page 35, line 21*  
Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years for borough and city governing bodies, and three years for school boards (the maximum term permitted under present law)

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). *page 35, line 27* Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.28.040). *page 36, line 5*

Assemblies and councils are required to provide by ordinance for election appeals. If the appeal is successful, the assembly or council bears the cost; if unsuccessful, the contestant must pay (Sec. 29.28.050). *page 36, line 8*

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of these powers by municipal residents is outlined (Secs. 29.28.080 - 29.28.110). *page 37, line 4 / page 40, line 18* *No longer setting in new code.*

The section on recall has been changed to eliminate the successor running at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250). *page 40, line 29 / page 43, line 1*

Chapter 33. Areawide Borough Powers and Duties

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

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

*page 43, line 19*

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the placing of power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than the boroughs as part of the area-wide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, boroughs now exercising the powers within cities may continue to do so upon agreement to that effect between a city and a borough; if there is no agreement, the city is required to exercise the powers within the city and the borough now exercising the powers is required to continue doing so outside the city. Areawide borough exercise of the powers may subsequently be acquired through transfer by the cities or by vote of the people (Sec. 29.48.035). (Present borough law has been interpreted by the Attorney General's office to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

*GRANDFATHER CLAUSE*

*Page 64, line 1*

*page 63, lines 24-29*

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



of additional areawide powers. In both the revision and present law, additional areawide powers require approval by a majority of the borough voters (Secs. 29.33.250 - 29.33.290). *page 54, line 7 / page 54, line 25*

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

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.010). *page 55, line 27*

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.38.020), *page 56, line 4* except with respect to certain special matters specified in *page 57, line 26* Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law. Acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency.

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged.

Chapter 43. Powers of Cities Outside Boroughs

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



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

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

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

Chapter 48. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution (Secs. <sup>page 59, line 3 / page 60, line 10 / page 74, line 23</sup> 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. <sup>page 74, line 26</sup> 29.48.320 and <sup>page 75, line 1</sup> 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  
*page 67, line 1*  
(Sec. 29.48.150). The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances  
*page 70, line 12*  
(Sec. 29.48.180). Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190).  
*page 71, line 3*

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250).  
*page 72, line 14 (DELETED?)*

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.-  
*page 74, line 7*  
48.270). The thinking is that should a disaster strike the classification of the city is not particularly relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and use taxes but not property taxes (Sec. 29.53.400). Within a borough the borough collects all of the taxes, provided the borough itself  
*Page 58, lines 8-10 / Page 92, line 20 / Page 100, line 2.*  
levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself (Sec. 29.53.450).  
*page 94, line 2*  
Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). *page 13, lines 27-29*

(This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes (Secs. 29.53.010 - 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law (Sec. 29.13.100(19)). Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. Opin. No. 647, November 2, 1970). *page 74, line 14*  
*page 75, line 7*  
*page 89, line 23 / page 92 line 20*  
*page 8, line 13*

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

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

110

Comparison of CSSB 113 and existing law Page fourteen  
interest on bonded indebtedness (Sec. 29.53.050). <sup>page 79, line 10</sup> Property taxes for  
other purposes may not exceed three per cent of the assessed property  
valuation per year, including the combined levy of such taxes within  
a city by a borough and the city within the borough (Sec. 29.53.050). <sup>page 79, lines 13-15</sup>

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

Under the new code, tax-foreclosed property lying within a city  
is deeded to the city while tax-foreclosed property lying within the  
borough but outside the city is deeded to the borough. The code further  
provides that should property deeded to the city not be needed for  
public use by the city but needed for public use by the borough, the  
borough may obtain such property. The same holds true for property  
deeded to the borough. When property is taken for public use by any  
governmental unit, the amount of taxes owing to the other governmental  
units will be paid by the governmental unit taking title (Secs. 29.53.-  
<sup>page 90, line 13 / page 91, line 27</sup> 360 and 29.53.385).

Under present law, general law municipalities are allowed to levy  
a sales tax but are not allowed to levy a use tax. Under the code  
both a sales tax and use tax may be levied. The code requires an  
election on sales tax. Since use tax is a correlative of the sales  
tax and can only be adopted subsequent to or at a referendum where the  
sales tax is adopted, no separate election is required for adoption of  
the use tax (<sup>page 73, line 3 / page 73, line 18</sup> Secs. 29.53.410 and 29.53.420).

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405). *page 92, line 26*

## Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040). *page 94, line 14*

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160). *page 96, line 26* Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default (Sec. 29.58.350), *page 100, line 25* essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved (Sec. 29.58.205). *page 98, line 5* In boroughs if the full faith and credit of

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

*page 100, line 17*  
Chapter 63. Special Assessment and Service Areas

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

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

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. 29.63.010). *page 100, line 6* The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

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

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

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.030). *page 108, line 2*

Unification of local governments is authorized as under present law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically than under present law (Secs. 29.68.350(a)(1) and 29.68.410). *page 110, line 15; page 119, line 6; page 115, line 8*

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.500(a)). *page 118, line 10* In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500). *page 119, line 11; page 119, line 22*

Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020). *page 121, line 23*

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THE CODE IN GENERAL

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

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

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

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. *page 3, line 16* (Sec. 29.08.040)

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. *page 4, line 29* (Sec. 29.18.020)

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of \$10 per voter. The minimum grant will be \$25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-180) *page 14, line 28*

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

*page 15, line 17*

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. *Page 17, line 27* (Sec. 29.23.040, *Page 25, line 28* Sec. 29.23.200, and Sec. 29.23.310) *Page 29, line 7*

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the un-organized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. *Page 24, line 28* (Sec. 29.23.170) *Page 27, line 20*

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. *Page 25, lines 22-24* (Sec. 29.23.200)

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. *Page 33, line 27* (Sec. 29.23.560)

A qualified voter contesting an election will bear the costs of a recount unless the result of the election is reversed by the recount. *Page 34, lines 6-10* (Sec. 29.28.050) *Page 36, line 8*

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee. (Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. (Sec. 29.43.020, *Page 58, lines 4* Sec. 29.53.010-29.53.350 and Sec. 29.53.400) *Page 75, line 7 to Page 89, line 234 page 92, line*

The provisions of Ch. 12, SLA 1971, providing that home rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010) *Page 59, line 3*

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020) *Page 59, line 26*

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033) *Page 61, line 12*

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power by transfer from cities or by areawide vote. (Sec. 29.48.035) *Page 62, line 2314*

GRANDFATHER CLAUSE *Page 64, line 1*

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a) ) *Page 71, line 3*

The property tax exemptions or exclusions required of all municipalities under present law are retained. *page 75, line 13* (Sec. 29.53.020)

General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. *Page 76, line 18* (Sec. 29.53.025)

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. *Page 77, line 7* (Sec. 29.53.025 (c) )

Existing law on valuation of farm land for property tax purposes is added. *Page 78, line 4* (Sec. 29.53.035)

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. *Page 79, line 10* (Sec. 29.53.050)

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58 340 <sup>b</sup> ) *Page 100, line 17*

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

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. *Page 101, line 6*  
 (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special assessment bonds is added. *Page 104, line 5* *Page 105, line 1*  
 (Sec. 29.63.060 and Sec. 29.63.085)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions clarify existing law. *Page 106, line 9*  
 (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. *Page 92, line 26*  
 (Sec. 29.53.405)

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. *Page 107, line 15*  
 (Sec. 29.68.010 (b) )

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is delineated more fully than in existing law. *Page 115, line 2*  
 (Sec. 29.68.350 (a) (1) and Sec. *Page 118, line 10*  
 29.68.410)

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

###

Original sponsor: Local Government  
Committee

Offered: 4/12/71  
Referred: Rules

119

1 IN THE HOUSE BY THE LOCAL GOVERNMENT COMMITTEE  
2 CS FOR HOUSE BILL NO. 208  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SEVENTH LEGISLATURE - FIRST 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  
10  
11  
12 Since CS FOR HOUSE BILL NO. 208 is identical to  
13 CS FOR SENATE BILL NO. 113 (which has been printed  
14 and distributed - a 125 page bill) copies of  
15 CS FOR HOUSE BILL NO. 208 will not be mailed or  
16 distributed.  
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MUNICIPAL CODE

April 12, 1971

TO: Members of the Legislature and other recipients of CSSB 113 or CSHB 208 (municipal code)

The following typographical changes to "Comparison of CSSB 113 and Existing Municipal Law", one of three attachments accompanying the bill (and appearing with the other attachments after the bill index), are called to your attention:

- Page 5: On the last line, the phrase ", who then" should be deleted and replaced with ". The"
- Page 6: On the fifth line from the bottom of the page, the word "four" should read "three"
- Page 6: On the last line of the page, the reference to "29.23.340" should be deleted.
- Page 9: The reference to "Sec. 29.48.025" should read "Sec. 29.48.-035"
- Page 16: Before the first line on the page the following words should be added: "the borough is pledged for the debt of the borough"
- Page 16: The reference to "Sec. 29.58.340(d)" should read "Sec. 29.58.340(b)"

These corrections have been incorporated in the attachments to the bill as they appear in the House Journal of this date.

Original sponsor: Local Government Committee

Offered: 4/9/71  
Referred: Rules

IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

CS FOR SENATE BILL NO. 113

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

\* Section 1. The following laws are repealed: AS 07.05 - 07.40; AS 18.75.010 - 18.75.030, 18.75.050 - 18.75.060; AS 29.05 - 29.95; AS 40.15.070, and 40.15.100 - 40.15.180.

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

TITLE 29. MUNICIPAL GOVERNMENT.

CHAPTER 3. THE UNORGANIZED BOROUGH.

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

Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, which may include but are not limited to schools, utilities, land use regulations and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.08.010. HOME RULE. A home rule municipality is a municipal corporation and is a borough of the first class or city of the first class which has adopted a home rule charter. It has all legislative powers not prohibited by law or charter.

122  
1           Sec. 29.08.020. GENERAL LAW. A general law municipality is a  
2 municipal corporation and is an unchartered borough or city. It has  
3 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 second 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 29.23.020 - 29.23.050 (city representation and vote
- 20 on borough assembly)
- 21 (2) AS 29.13.080 (charter amendment)
- 22 (3) AS 29.18.140 (borough transition)
- 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 - 29.28.030 (municipal elections)
- 29 (9) AS 29.28.130 - 29.28.250 (recall)

- 1 (10) AS 29.33.010(b) (areawide borough powers)  
2 (11) AS 29.33.295 (acquisition of additional areawide  
3 powers)  
4 (12) AS 29.43.020 - 29.43.040 (powers of cities outside  
5 boroughs)  
6 (13) AS 29.43.033 (garbage collection and disposal)  
7 (14) AS 29.48.035(c) (borough building code jurisdiction  
8 within cities)  
9 (15) AS 29.48.037 (extraterritorial jurisdiction)  
10 (16) AS 29.48.040 - 29.48.100 (utilities)  
11 (17) AS 29.48.180 (codification)  
12 (18) AS 29.48.190(a) (fiscal year)  
13 (19) AS 29.48.210 (expenditure of borough revenue)  
14 (20) AS 29.48.220 (post audit)  
15 (21) AS 29.53.010 - 29.53.350, 29.53.400(borough and city  
16 property tax)  
17 (22) AS 29.58.180(b) (security for bonds)  
18 (23) AS 29.68.010 (annexation and exclusion)  
19 (24) AS 29.68.030 - 29.68.110 (merger and consolidation)  
20 (25) AS 29.68.500 - 29.68.580 (dissolution)  
21 (26) AS 29.73.020 (eminent domain)  
22 (27) AS 29.73.030 (adverse possession)  
23 (28) AS 29.73.040 (taxation of municipalities)  
24 (29) AS 29.73.050 (municipal name changes)

25 CHAPTER 18. INCORPORATION.

26 ARTICLE 1. REQUIREMENTS.

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

29 Sec. 29.18.020. SECOND CLASS CITIES. A community having 25 or

1 more permanent residents may incorporate as a second class city.

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

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

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

10 (3) the economy encompasses a trading area with human and  
11 financial resources capable of providing local services; evaluation  
12 of an area's economy includes land use, property valuations, total  
13 economic base, total personal income, resource and commercial develop-  
14 ment, anticipated functions, expenses, and income of the proposed  
15 borough;

16 (4) land, water, and air transportation facilities allow  
17 the communication and exchange necessary for the development of  
18 integrated local government.

19 ARTICLE 2. PROCEDURES.

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

23 (1) class;  
24 (2) name;  
25 (3) boundaries;

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

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

29 (6) for a second class borough, a designation of areawide

1 powers to be exercised and of powers to be exercised in the area out-  
2 side cities only;

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

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

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

12 (10) for borough incorporation, the signature and resident  
13 address of 15 per cent of the permanent resident voters in each first  
14 class city and 15 per cent of voters in the area outside first class  
15 cities based on the number who voted in the respective areas in the last  
16 general election.

17 Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review  
18 petitions for content and signatures and shall return deficient peti-  
19 tions for correction and completion.

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

25 (b) The agency may combine petitions for incorporation from the  
26 same general area.

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

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

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

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

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

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

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

23 Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary  
24 Commission shall immediately notify the lieutenant governor of its  
25 acceptance of an incorporation petition. Within 30 days after notifi-  
26 cation, the lieutenant governor shall order an election in the proposed  
27 municipality to determine whether the voters desire incorporation.  
28 The election is held not less than 30 nor more than 90 days after the  
29 date of the election order. The election order must specify the dates

1 during which nomination petitions for election of initial officers  
2 may be filed.

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

6 (c) Areawide borough powers included in the incorporation petition  
7 are considered to be part of the incorporation question. In an elec-  
8 tion for the incorporation of a second class borough, each power to be  
9 exercised outside cities only is placed separately on the ballot.  
10 Adoption of a nonareawide power requires a majority of the votes cast  
11 on the question, and the vote is limited to the voters residing outside  
12 cities.

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

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

21 (b) Nominations for initial officers are made by petition. The  
22 petition is in the form prescribed by the lieutenant governor and  
23 includes the name and address of the nominee and a statement of the  
24 nominee that he is qualified under the provisions of this title for  
25 the office that he seeks. A person may file for and occupy more than  
26 one office, but he may not serve simultaneously as borough chairman  
27 and as a member of the borough assembly or as mayor and as a member  
28 of the council of a home rule or first class city. Petitions to  
29 nominate officers of a second class city must include the signature and

1 resident address of 10 voters in the area of the proposed city.  
 2 Petitions to nominate borough assemblymen must include the signature  
 3 and resident address of 50 voters who are residents of the proposed  
 4 borough in the area outside home rule and first class cities. Peti-  
 5 tions to nominate other municipal officers must include the signature  
 6 and resident address of 50 voters in the area of the proposed municipi-  
 7 pality.

8 (c) The lieutenant governor shall supervise the election in the  
 9 general manner prescribed by the Alaska Election Code (AS 15.05 -  
 10 15.60). The municipality shall not be required to reimburse the state  
 11 for the election costs.

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

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

1 city as successor to the service area. Upon integration no less than  
 2 all property in the service area at the time of integration remains  
 3 subject to taxation to pay the principal of and interest on the bonds.  
 4 The provisions of this section shall apply to all organized boroughs  
 5 whether incorporated or organized before or after the effective date  
 6 of this Act.

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

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

*at bur 8 1 1 1000  
int fair 2 100  
sub \$25,000  
(not verified)*

*→ Govt. Dept. outside 1000  
→ now land state 1000  
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in order to provide for development and interim governmental operations, each borough and city incorporated or, in the case of a second class city, incorporated or reclassified after the effective date of this Act, other than a unified municipality incorporated under the provisions of ch. 134 SLA 1967, as amended, or a municipality otherwise incorporated by consolidation, is entitled to an organization grant equal to \$10 for every voter who voted in the borough or city incorporation election. However, each incorporated borough and each first class city incorporated or established by reclassification outside an organized borough is entitled to at least \$25,000.

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

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

Sec. 29.18.190. STATE LAND. A borough or city may select 10 per cent of the vacant, unappropriated, unreserved state land located within its boundaries. In the selection of land under the Alaska Statehood Act, it is the policy of the state to make available to cities and boroughs the maximum land area from which to make selections under this section consistently with the best interests of the state. Nothing in this section affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way or other purpose or affects the rights of an owner, claimant, locator, or entryman to the full use 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 e   ite  
 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  
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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 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. 29.23.030. 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 an election is held every <sup>3</sup>two years at the time of the general election to choose assemblymen from outside home rule and first class cities for two-year

1 terms, unless provided otherwise by ordinance, and until their suc-  
2 cessors are elected and have qualified. The regular term begins on  
3 the first Monday following the regular borough election. City council-  
4 men on the assembly may not be replaced by the council unless their  
5 assembly term expires as provided by city charter or ordinance, or  
6 they cease to be a member of either the assembly or the council. The  
7 assembly may provide for different terms by ordinance, but they may  
8 not exceed four years. The current term of incumbent assemblymen  
9 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. If  
2 the presiding officer is not present or disqualifies himself, the  
3 deputy presiding officer shall preside.

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

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

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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 chairman 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  
6 abolish sections for the election of assemblymen in the area outside  
7 home rule and first class cities, except that sections may not be  
8 abolished unless a majority of the assemblymen outside home rule and  
9 first class cities approve. If it establishes sections, members  
10 representing the area outside home rule and first class cities repre-  
11 sent the sections in which they reside. The ordinance must state  
12 whether assemblymen are elected by all voters outside home rule and  
13 first class cities or only by the voters of the section in which they  
14 reside. The number of sections equals the number of assemblymen  
15 representing the area outside home rule and first class cities.  
16 Section boundaries are established in such a way to provide, insofar  
17 as possible, clarity of boundaries, compactness of an area, approxi-  
18 mately equal population representation among sections, and homogeneity  
19 of interest.

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

22 ARTICLE 2. BOROUGH EXECUTIVE.

23 Sec. 29.23.130. EXECUTIVE POWER. (a) The executive and adminis-  
24 trative power of the borough is vested in an elected chairman or in  
25 an appointed manager.

26 (b) A borough voter is eligible to be borough chairman.

27 (c) The chairman's regular term of office is two years and until  
28 a successor is elected and has qualified and begins on the first Monday  
29 following his election, which is held the Tuesday after the first Monday

1 in November. The assembly may provide by ordinance for a different  
2 term not to exceed four years, except that the current term of an  
3 incumbent chairman may not be altered.

4 (d) A borough may adopt or abandon a manager plan at any time,  
5 as provided in secs. 410 - 480 of this chapter. The chairman may not  
6 veto an ordinance or resolution calling for an election on this ques-  
7 tion. The manager has all the powers and duties of the chairman  
8 except that he has no veto power. There is no elected chairman if  
9 the manager plan is adopted, except that the chairman retains his  
10 office and the manager plan is not effective until the first regular  
11 election occurring at least six months after the manager plan is  
12 adopted.

13 Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH EXECUTIVE. (a)  
14 The borough executive, as the chief administrative officer, is respon-  
15 sible for the proper administration of all borough affairs. The  
16 executive of the borough shall

17 (1) appoint borough employees and administrative officers,  
18 except as provided otherwise in sec. 360 of this chapter and in  
19 AS 29.33.050; he may hire necessary administrative assistants and may  
20 authorize an appointive administrative officer to appoint, suspend,  
21 or remove subordinates in his department;

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

25 (3) supervise enforcement of borough law;

26 (4) prepare the annual budget and capital improvements  
27 program for the assembly;

28 (5) execute the budget and capital improvement program as  
29 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  
16 all borough roads, bridges, drains, buildings and other public  
17 works;

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

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

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

28 Sec. 29.23.170. VETO. (a) Except as provided in (b) of this  
29 section, the chairman may veto any ordinance, resolution, motion or

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

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

10 Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office of  
 11 the chairman occurring within six months of a regular election shall  
 12 be filled by the assembly. The person designated shall serve until  
 13 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  
 16 election, the assembly shall call a special election to fill the unex-  
 17 pired term.

18 ARTICLE 3. CITY COUNCIL.

19 Sec. 29.23.200. COMPOSITION, ELIGIBILITY, ELECTION AND TERM.

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

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

28 (c) An election is held every year on the Tuesday after the  
 29 first Monday in November to choose councilmen for two-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.

24 Sec. 29.23.240. MAYOR. Each city has a mayor 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

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

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

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

(d) The mayor's regular term begins on the first Monday following his election, which is held on the Tuesday after the first Monday in November. The council of a second class city shall meet on the first Monday after the regular election date and elect a mayor who takes office immediately.

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

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

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

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

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