

ALASKA LEGISLATURE COMMITTEE FILES 1971-1972 86/2

78.11 FREE CONF. COMM RE: MUNIC. CODE REVISION, HB 208/SB 113

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(1) Shall the \_\_\_\_\_ Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and majority vote from the remaining area composed of all first class and home rule cities of the borough?

Yes  No

(2) Knowing that the powers and responsibilities of a home rule municipality are essentially the same whether it carries the name of borough or city, I would still prefer that, if the proposition above carries, the new home rule municipality be called a:

- Borough
- City
- No preference (I would expect the charter commission to recommend an appropriate designation consistent with existing law.)

		Inside First	Outside First
		Class or Home	Class or Home
Signature	Address	Rule City	Rule City"

(b) The petition shall be signed by at least

(1) that number of qualified voters of the borough living outside all first class and home rule cities in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election; and

(2) that number of qualified voters residing in each first class and home rule city located in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election in each city.

1           Sec. 29.68.270. REVIEW OF PETITION. Upon receipt of a petition  
 2 for unification, the borough assembly shall review the petition within  
 3 15 days after its receipt to determine whether it complies with sec.  
 4 260 of this chapter. If the petition does not meet the designated  
 5 requirements, it shall be immediately returned to the person who  
 6 initiated the petition with a statement indicating which requirements  
 7 have not been satisfied.

8           Sec. 29.68.280. CALL FOR CHARTER COMMISSION NOMINATIONS. Once  
 9 it is determined by the borough assembly that a petition for unifica-  
 10 tion meets the requirements of sec. 260 of this chapter, the assembly  
 11 shall issue a call for the nomination of charter commission candidates,  
 12 specifying the filing deadline and outlining the procedure described  
 13 for making nominations under sec. 290 of this chapter.

14           Sec. 29.68.290. NOMINATION OF CHARTER COMMISSION CANDIDATES. (a)  
 15 Charter commission candidates shall be nominated by petition signed by  
 16 at least 50 qualified voters of the area fro. which the candidate  
 17 seeks election or by a number of qualified voters from that area equal  
 18 to at least 10 per cent of the number of votes cast from that area  
 19 in the last regular borough election, whichever is less.

20           (b) Nomination petitions shall be filed with the borough clerk  
 21 on or before the date fixed by the borough assembly, which date shall  
 22 not be less than 30 days after notice of the call for nominations has  
 23 been given through the borough.

24           Sec. 29.68.300. QUALIFICATIONS OF CHARTER COMMISSION CANDIDATES.  
 25 A person is eligible to be nominated as a candidate for the charter  
 26 commission if he has been a qualified voter of the area from which he  
 27 seeks election for at least one year immediately preceding the date  
 28 his nomination petition is filed with the borough clerk.

29           Sec. 29.68.310. COMPOSITION OF CHARTER COMMISSION. The charter

1 commission members shall be qualified voters and shall consist of  
 2 11 members, three of whom shall be residents elected at large from the  
 3 area of the borough and eight of whom shall be (1) residents of and  
 4 elected from the area outside cities in the borough or (2) residents  
 5 of and elected from a city or cities in the borough. The number  
 6 representing each of these areas shall be proportionate to the respec-  
 7 tive populations as determined by the Local Affairs Agency.

8 Sec. 29.68.320. ELECTION. (a) After receipt of a valid petition  
 9 for unification, the borough assembly shall submit to the voters the  
 10 question of whether that borough and all cities within it shall unite  
 11 to form a single unit of home rule government. The vote shall be held  
 12 at the next regular borough election scheduled at least 90 days after  
 13 receipt of the valid petition.

14 (b) The ballots on the question of unification shall be worded  
 15 exactly as in sec. 260(a)(1) and (2) of this chapter.

16 (c) The election of charter commission members shall take place  
 17 at the same time as the election on the question of unification.

18 (d) All costs incurred in conducting an election under this  
 19 chapter shall be paid by the borough.

20 Sec. 29.68.330. REQUIREMENTS FOR APPROVAL OF UNIFICATION AND  
 21 ELECTION OF CHARTER COMMISSION. (a) The votes on unification shall  
 22 be tabulated in two separate classifications. One classification shall  
 23 consist of all votes cast in the first class and home rule cities of  
 24 the borough. The other classification shall consist of all votes cast  
 25 in the remaining areas of the borough. In order for unification to be  
 26 approved, it is necessary that a majority of the votes in each classi-  
 27 fication favor unification.

28 (b) If unification is approved, those charter commission candi-  
 29 dates who received the highest number of votes from their respective

1 areas shall serve as members of the commission.

2 Sec. 29.68.340. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

3 (a) The charter commission authorized by this chapter shall hold its  
4 first meeting within 30 days of the date of certification of its elec-  
5 tion. The commission shall elect from among its members a chairman  
6 and a deputy chairman.

7 (b) A majority of the total membership of the charter commission  
8 constitutes a quorum. No decision of the commission is valid or binding  
9 unless approved by that number of members necessary to constitute a  
10 quorum.

11 (c) The charter commission may elect other officers from among  
12 its membership, adopt rules governing its procedures and hire and  
13 discharge commission employees. Rules adopted must conform with the  
14 provisions of this chapter.

15 (d) Meetings of the charter commission shall be open to the  
16 public at all times. A journal of commission proceedings shall be  
17 kept and shall be available for public inspection at the borough office.

18 (e) Except as provided in sec. 390(e) of this chapter, vacancies  
19 on the charter commission shall be filled by a majority vote of the  
20 commission. The person appointed to fill a vacancy must be a qualified  
21 voter of the same area as the person whom he succeeds and must have  
22 been a qualified voter of that area for at least one year immediately  
23 preceding the date of his appointment.

24 (f) The borough assembly may grant a per diem allowance to the  
25 commission members and may reimburse the members for travel expenses  
26 incurred in carrying out the duties prescribed by this chapter.

27 (g) Costs, fees, and other expenses incurred by the charter  
28 commission are a debt of the borough and shall be paid upon proper  
29 verification.

1           Sec. 29.68.350. CHARTER PREPARATION. (a) A charter commission  
 2 established under this chapter shall prepare, adopt and submit a pro-  
 3 posed home rule charter for the area to be unified to the voters for  
 4 approval or rejection at a general or special borough election called  
 5 by the borough assembly held within 60 days of the date of publication  
 6 and posting of the proposed charter as required in sec. 380 of this  
 7 chapter. The charter shall include among its provisions:

8                   (1) provisions for adjustment of existing bonded indebted-  
 9 ness and other obligations in a manner which will reserve a fair and  
 10 equitable burden of taxation for debt service, subject to sec. 410 of  
 11 this chapter;

12                   (2) provision for the establishment of  
 13                   (A) service areas;  
 14                   (B) sections, if desired; and  
 15                   (C) reapportionment of the sections, if established;

16                   (3) provision for nonpartisan government and provision for  
 17 the selection, organization, authority and responsibilities of the  
 18 governing body and its executive;

19                   (4) the transfer or other disposition of property and other  
 20 rights, claims, assets and franchises of the local government to be  
 21 unified under the charter;

22                   (5) provision for exercise of the rights of initiative and  
 23 referendum as required by AS 29.13.050;

24                   (6) a method of amending the charter;

25                   (7) the date on which the charter, if approved at the  
 26 charter election required by sec. 390 of this chapter, is effective;

27                   (8) designation of the new municipality's official name,  
 28 subject to the provisions of (b) of this section;

29                   (9) other charter provisions which the charter commission

1 elects to include and which may be included in a home rule charter  
2 under this chapter and the state constitution.

3 (b) The area to be unified shall be known as a borough or a city  
4 or by some other designation consistent with existing law as determined  
5 by a plurality of the votes cast at the election held under sec. 320  
6 of this chapter.

7 Sec. 29.68.360. PUBLIC HEARINGS. Both before and after drafting  
8 the proposed charter, the charter commission shall hold a public hear-  
9 ing in each area of the borough represented on the borough assembly.  
10 Other public hearings may be held by the charter commission whenever  
11 and wherever it believes necessary and appropriate.

12 Sec. 29.68.370. FILING OF PROPOSED CHARTER. Upon the adoption  
13 of a proposed home rule charter by th. charter commission, the charter  
14 shall be signed by at least a majority of the total membership of the  
15 commission and shall be filed with the borough clerk. A copy with  
16 signatures affixed shall also be filed with the clerk of each city  
17 within the borough.

18 Sec. 29.68.380. PUBLICATION AND POSTING OF PROPOSED CHARTER.  
19 Within 10 days after filing the proposed charter, the borough clerk  
20 shall have it published once in at least one newspaper having general  
21 circulation within the borough, if there is a newspaper having general  
22 circulation within the borough. In addition, the clerk shall have a  
23 copy of the proposed charter posted in at least three public places  
24 within each city of the borough and each area outside cities. Copies  
25 of the proposed charter shall be made available by the borough assembly  
26 to the public at both the office of the borough clerk and the office  
27 of the clerk of each city within the borough. The clerk shall publish  
28 notice by radio and television of the publication, posting, and  
29 availability of the proposed charter in a manner intended to apprise

1 the entire borough population of the existence of the proposed charter.

2 Sec. 29.68.390. ELECTION ON CHAPTER. (a) The proposed charter  
3 adopted by the charter commission shall be submitted to the voters for  
4 ratification or rejection at the borough election specified in sec.  
5 350 of this chapter. The borough clerk shall prepare the ballots for  
6 use in the election and shall give published notice of and otherwise  
7 conduct the election in the manner in which regular municipal elections  
8 are conducted. In addition, the clerk shall publish notice of the  
9 election by radio and television in a manner intended to apprise the  
10 entire borough population of the election.

11 (b) A person who is a qualified voter of the borough may vote  
12 in the election on the proposed charter.

13 (c) If a majority of the votes cast in the area of the borough  
14 outside all first class and home rule cities and a majority of the  
15 votes cast in the remaining area of the borough, composed of all first  
16 class and home rule cities, are cast in favor of the proposed charter,  
17 the charter is ratified. If the charter is ratified, two copies of  
18 the charter shall be filed with each of the following authorities:

- 19 (1) lieutenant governor;
- 20 (2) director of the Local Affairs Agency;
- 21 (3) district recorder for the area of the borough;
- 22 (4) clerk of the borough;
- 23 (5) clerk of each city in the borough.

24 (d) If a proposed charter is rejected, the charter commission  
25 shall prepare, adopt and submit a proposed charter to the voters at a  
26 general or special borough election called by the borough and held  
27 within one year of the date of the first charter election. If the  
28 second proposed charter is also rejected, the charter commission shall  
29 be dissolved and the question of unification shall be treated as if it

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1 had never been proposed or approved.

2 (e) If after the rejection of the first proposed charter, more  
3 than one-half of the charter commission members resign from the commis-  
4 sion, the borough assembly shall appoint new members to fill the  
5 vacancies in accordance with sec. 110(e) of this chapter.

6 Sec. 29.68.400. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon  
7 ratification, the charter of a unified municipality organized under  
8 secs. 240 - 440 of this chapter operates to dissolve all local govern-  
9 ments within the area of unification in accordance with the charter.

10 Sec. 29.68.410. ASSETS AND LIABILITIES. A municipality created  
11 by unification shall succeed to all the assets and liabilities of the  
12 local governments it unified. A bonded indebtedness or other debt  
13 incurred before unification shall remain the tax obligation of the area  
14 which contracted the debt, except that the tax obligation may be spread  
15 over a larger area by ordinance if the governing body determines that  
16 the asset for which the bonded indebtedness or other debt was incurred  
17 was used for the benefit of the larger area before unification, or is  
18 so used after unification. However, pre-unification bonded indebtedness  
19 or other debt for sewage collection systems, water distribution systems,  
20 and streets, even if determined to be used for the benefit of a larger  
21 area than that which incurred the debt, shall remain the tax obligation  
22 of the area which incurred the debt.

23 Sec. 29.68.420. ORDINANCES. Within two years after ratification  
24 of the charter, the governing body of the unified municipality shall  
25 revise, repeal, or reaffirm all borough and city ordinances, resolutions  
26 and orders in force within the borough at the time of unification.  
27 Each ordinance, resolution, regulation, or order in force at the time  
28 of unification shall remain in force until superseded by action of the  
29 new governing body.

1           Sec. 29.68.430. RIGHT TO STATE AND FEDERAL FUNDS PRESERVED. All  
2 provisions of law authorizing contributions of any kind, in money or  
3 otherwise, from the state or federal government to boroughs and cities  
4 shall remain in full force and effect with respect to a unified municipi-  
5 pality organized under secs. 240 - 440 of this chapter.

6           Sec. 29.68.440. POWERS OF A UNIFIED MUNICIPALITY. A municipality  
7 organized under secs. 240 - 440 of this chapter shall have all powers

8           (1) not prohibited it by law or charter;

9           (2) granted to organized boroughs and first class cities.

10                           ARTICLE 4. DISSOLUTION.

11           Sec. 29.68.500. METHODS OF DISSOLUTION. (a) Two petition methods  
12 may be used to initiate dissolution of home rule and general law  
13 municipalities:

14           (1) petition to the Local Boundary Commission under regula-  
15 tions adopted by the commission; or

16           (2) the local option method specified in secs. 510 - 580  
17 of this chapter.

18           (b) A home rule or general law borough is dissolved when its  
19 entire territory is included within a home rule or first class city or  
20 cities. A city is dissolved when all its powers become areawide  
21 borough powers.

22           (c) The Local Affairs Agency shall investigate a municipality  
23 which it considers to be inactive and shall report to the Local  
24 Boundary Commission on the status of the municipality. The commission  
25 may submit its recommendation to the legislature that the municipality  
26 be dissolved in the manner provided for submission of boundary changes  
27 in sec. 12, art. X of the state constitution.

28           Sec. 29.68.510. PETITION. (a) Municipal residents may file a  
29 dissolution petition with the Local Affairs Agency in the form

1 prescribed by the agency. The petition must be signed by a number of  
2 municipal voters equal to at least 25 per cent of the number of votes  
3 cast in the last regular municipal election.

4 (b) The petition includes

5 (1) the name of the municipality;

6 (2) maps, documents, and other information showing that the  
7 municipality meets the standards for dissolution.

8 Sec. 29.68.520. STANDARDS. (a) Except as provided in (b) of  
9 this section, a municipality may petition for dissolution when

10 (1) it is free of debt, or if in debt, each of its creditors  
11 is satisfied with a method of repayment; and

12 (2) either it no longer meets the minimum standards pre-  
13 scribed for incorporation by ch. 18 of this title, or it ceases to use  
14 each and every one of its mandatory powers.

15 (b) A home rule or general law city in a borough may petition for  
16 dissolution if the borough consents to assume the city's rights, powers  
17 duties, assets and liabilities. The consent must be ratified by a  
18 majority of borough voters voting on the question.

19 Sec. 29.68.530. REVIEW. The Local Affairs Agency shall review  
20 a petition for content and signatures and shall return a deficient  
21 petition for correction or completion.

22 Sec. 29.68.540. INVESTIGATION. If the petition contains the  
23 required information and signatures, the Local Affairs Agency shall  
24 investigate the proposal.

25 Sec. 29.68.550. REPORT AND HEARING. (a) The Local Affairs  
26 Agency shall report its findings to the Local Boundary Commission with  
27 its recommendation regarding the dissolution.

28 (b) The Local Boundary Commission shall hold at least one public  
29 hearing in the area proposed to be dissolved.

1           Sec. 29.68.560. DECISION. If the Local Boundary Commission deter-  
2 mines that the municipality fails to meet the standards for dissolution,  
3 it shall reject the petition. If the commission determines that the  
4 municipality meets the standards, it shall accept the petition.

5           Sec. 29.68.570. ELECTION. (a) The Local Boundary Commission  
6 shall immediately notify the lieutenant governor of its acceptance of  
7 a dissolution petition. Within 30 days after notification, the  
8 lieutenant governor shall order an election within the municipality to  
9 determine whether the voters desire dissolution. The election is at  
10 least 30 and not more than 90 days after the election order.

11           (b) A person who is a qualified voter of the municipality may  
12 vote in the dissolution election.

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

16           (d) The lieutenant governor shall certify the election results.  
17 If dissolution is approved, he shall declare that the municipality is  
18 dissolved effective on the date of certification.

19           Sec. 29.68.580. SUCCESSION. The government succeeding to a  
20 dissolved municipality succeeds to all its rights, powers, duties,  
21 assets, and liabilities as provided in AS 29.18.140 - 29.18.150.

22           CHAPTER 73. MISCELLANEOUS PROVISIONS.

23           Sec. 29.73.020. EMINENT DOMAIN. A municipality may exercise  
24 the powers of eminent domain and declaration of taking in the perfor-  
25 mance of an authorized power or function of the municipality, in  
26 accordance with AS 09.55.250 - 09.55.460.

27           Sec. 29.73.030. ADVERSE POSSESSION. A municipality may not be  
28 divested of title to real property by adverse possession.

29           Sec. 29.73.040. TAXATION OF MUNICIPALITIES. No state law or

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1 regulation may assess or tax, or be construed to assess or tax, home  
2 rule or general law cities or boroughs of this state, unless the law  
3 or regulation expressly provides that the cities or boroughs are to  
4 be assessed or taxed by the particular law or regulation.

5 Sec. 29.73.050. CHANGE OF MUNICIPAL NAME. (a) The governing  
6 body of a home rule or general law municipality may change the official  
7 municipal name by adopting an ordinance for the purpose and filing  
8 the ordinance with the office of the lieutenant governor. Upon receipt  
9 of a legally adopted ordinance ratified by the qualified voters voting  
10 on the question at a regular or special election, the lieutenant gover-  
11 nor shall issue an appropriate order to the municipality changing its  
12 existing name. The name change shall become effective on a date fixed  
13 in the order and occurring within 45 days of receipt of the ordinance.  
14 A copy of the order shall be transmitted to the Local Affairs Agency.

15 (b) If an ordinance adopted under (a) of this section which  
16 results in an order changing the municipal name is subsequently repealed,  
17 the lieutenant governor shall issue a further order reinstating the  
18 former municipal name within 45 days of the date of the order, unless  
19 a different municipal name is adopted by ordinance transmitted to the  
20 lieutenant governor for implementation as provided in (a) of this  
21 section.

22 (c) When a municipal name change takes effect by means of an  
23 order issued under (a) or (b) of this section, civil or criminal suits,  
24 applications, petitions, hearings and other proceedings to which the  
25 municipality is a party and pending at or brought after the date the  
26 name change takes effect shall proceed in the name of the municipality  
27 as changed by the order.

28 CHAPTER 78. GENERAL PROVISIONS.

29 Sec. 29.78.010. DEFINITIONS. In this title, unless otherwise

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provided or the context otherwise requires,

(1) "borough" means a general law first, second, or third class organized borough;

(2) "city" means a general law first or second class city;

(3) "conditional use" means exception, special exception, special use, or special permit designated in the zoning ordinance;

(4) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(5) "general election" means the state election held on the Tuesday after the first Monday in November of even-numbered years;

(6) "majority" means a simple majority;

(7) "merger" means dissolution of a municipality and its absorption by another municipality;

(8) "municipality" means a general law municipal corporation, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the state;

(9) "owner", "record owner", or "owner of record" means owner of record or purchaser of record;

(10) "published" means appearing at least once in a newspaper of general circulation distributed within the municipality or, if there is no newspaper of general circulation distributed within the municipality, posting in three public places for at least five days;

(11) "regular election" means the municipal election held on the Tuesday following the first Monday in November of even-numbered years, or at an interval of years provided by ordinance;

(12) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(13) "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the

1 purpose, whether immediate or future, of sale or building development,  
2 includes resubdivision, and, when appropriate to the context, relates to  
3 the process of subdividing or to the land or area subdivided;

4 (14) "voter" means a United States citizen who has been a  
5 resident of Alaska for one year and of the municipality for 30 days  
6 immediately preceding the election and who is registered to vote in  
7 state elections, or meets registration requirements of the municipality  
8 if any and is not disqualified under art. V of the state constitution.

9 \* Sec. 3. A right or liability of a home rule or general law city or  
10 borough existing on the effective date of this Act is not affected by the  
11 enactment of this title. All existing ordinances remain in force and effect  
12 for a period of 90 days from the effective date of this Act, unless earlier  
13 superseded, in order to permit amendment of the ordinances to comply with  
14 the provisions of this title. The terms of elected local officials within  
15 home rule and general law cities and organized boroughs who are incumbents  
16 in office on the effective date of this Act are not affected by this Act.  
17 Their terms expire as provided before the enactment of this title. Their  
18 successors are elected on the date provided before the enactment of this  
19 title and serve for terms to conform with the provisions of this title.

20 \* Sec. 4. AS 14.12.050 is amended to read:

21 Sec. 14.12.050. SCHOOL BOARD TERMS. (a) The term of office of  
22 a member of a borough or city school board is two [THREE] years, unless  
23 different terms not to exceed three years are provided by ordinance,  
24 and until a successor takes office. However, if three-year terms are  
25 provided, the members of a newly created five-man school board hold  
26 office for initial terms as follows: two for a term of three years,  
27 two for a term of two years and one for a term of one year, the terms  
28 being assigned to the members by lot. If three-year terms are provided,  
29 the [THE] members of a newly created seven-man school board hold

1 office for initial terms as follows: three for a term of three years,  
2 two for a term of two years and two for a term of one year, the terms  
3 being assigned to the members by lot.

4 (b) When a transition is made from a five-man school board to  
5 a seven-man school board new members shall be elected as follows, if  
6 three-year terms are provided: at the first regular school election  
7 after the district becomes eligible for a seven-man school board there  
8 shall be elected, in addition to the successor or successors to be  
9 elected for a regular term, a new member for an initial term of two  
10 years and until a successor takes office, and a new member for an  
11 initial term of three years and until a successor takes office.

12 (c) Nothing in this section prevents a school board member from  
13 succeeding himself.

14 \* Sec. 5. AS 38.05 is amended by adding a new section to read:

15 Sec. 38.05.037. ZONING REGULATIONS IN THE UNORGANIZED BOROUGH  
16 TO FACILITATE FEDERAL LAND SALES. (a) In areas of the unorganized  
17 borough where there is no political subdivision of the state with a  
18 zoning power, the division of lands shall exercise the zoning power by  
19 adopting zoning regulations.

20 (b) The division of lands shall exercise its zoning power within  
21 federal lands in the unorganized borough only at the times and in the  
22 areas it is requested to do so by the Secretary of the Interior to  
23 facilitate sales of federal lands within the unorganized borough under  
24 Public Law 88-608, 78 Stat. 988.

25 (c) Any zoning done by the division of lands under (b) of this  
26 section is final unless disapproved by concurrent resolution at the  
27 next regular session of the legislature.  
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