

78

HLG

SB

113

-

SJR

20

March 29, 1971

MEMO

TO: Joint Senate and House Local Government Committee

FROM: The Chairmen

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

This is a summary of substantive amendments to Senate Bill No. 113 proposed by the Chairmen of the Senate and House Local Government Committees. All specific proposed amendments are set forth in the memorandum of amendments accompanying this summary.

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

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)

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

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the State election, unless a locality provides by ordinance for different terms,

Summary of Proposed Amendments to SB No. 113, cont'd.

which may not exceed four years in length. If a locality chooses to have different terms it will, of course, have election in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. (Sec. 29.23.040, Sec. 29.23.200, and Sec. 29.23.310)

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

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

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

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

State law relating to teacher salaries and tenure, financial support, Department of Education supervision of schools, other general laws relating to schools, and the appointment, compensation, and control of school employees and administrative officers specified in AS 14 are binding on home-rule as well as general law municipalities. (Sec. 29.33.050 (h), and Sec. 29.43.030)

Summary of Proposed Amendments to SE No. 113, cont'd.

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the Joint Committee on March 24, 1971 (Sec. 29.33.095)

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

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

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

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

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

Summary of Proposed Amendments to SB No. 113, cont'd.

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

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

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

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

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

Boroughs and cities are given the option of adopting an income tax as an alternative to either property taxes or sales and use taxes. The State will collect the income tax and remit it less the costs of collection. (Sec. 29.53.470)

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58.-340 (d))

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

Summary of Proposed Amendments to SB No. 113, cont'd.

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

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

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

A few technical changes will be pointed out in Committee.

Page 1, line 9: Delete "AS 09.65.070"

Page 1, line 11: Strike all matter and substitute the following: "070, 40.15.100 - 40.15.180, and AS 43.20.290."

Page 2, lines 11 - 15: Strike all matter and substitute the following:

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

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

(1) a number of voters equal to 15 per cent of the number of votes cast in the city at the preceding regular election may file a petition with the council; or

(2) the council may propose reclassification

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

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

(e) If more than one question is to be voted on at the election, each appears separately on the ballot.

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

Page 2, line 16: Delete "(b)" and substitute "(f)"

Page 2, line 17: Delete all matter and substitute the following:

"or third class borough, and a second class borough may reclassify as a first class or second"

Page 2, between lines 20 - 21: Insert the following new matter:

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

(d) At the time of voting on reclassification of a third class borough to second class or first class status, borough voters shall vote also on the question whether the borough shall upon reclassification retain a combined assembly and school board or a separate assembly and board as otherwise provided for first and second class boroughs. If the majority of votes cast on the question favors retention of the combined assembly and board, the assembly serving at the time of the reclassification election continues to serve as the assembly and board upon voter approval of reclassification and until terms of assemblymen expire as provided before reclassification. If a separate board and assembly are approved at the reclassification election, a school board shall be elected in conformity with AS 14.12 at the next regular municipal election, if it occurs within 90 days of the date of the reclassification election, or otherwise at a special election within that time called by the assembly with expiration dates of terms of members elected at the special election to coincide with the date of the regular municipal election. Until a board is elected and qualified, the assembly continues to serve as the board.

Page 2, line 22: After "Act," add: "the current classification of existing home rule cities and of first class cities having 400 or more permanent residents is not affected by this Act;" and strike "second" and substitute "Second"

L
A
A

- 1 Page 3, line 6: Strike "on" and substitute "before"
- 2 Page 3, line 10: Strike "if no" and substitute "unless"
- 3 Page 4, line 18: After "circulation" add "if distributed"
- 4 Page 5, line 24: After "initiative" insert "referendum"

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Page 5, line 25: Strike "29.28.100" and substitute "29.28.060 - 29.28.110"

Page 5, line 29: After "provisions" insert "of this title"

Page 5, line 29: Strike ", which are prohibited" and substitute "as prohibitions on"

Page 6, line 1: Strike "from"

Page 6, between lines 2 and 3: Add the following new matter:

"(1) AS 29.23.020 - 29.23.050 (city representation and vote on borough assembly)" Renumber next paragraph and add new paragraph (3):

"(3) AS 29.18.140 (borough transition)" Renumber following paragraphs accordingly.

Page 6, line 9: After "29.28.010" insert ", 29.28.020 - 29.28.030"

Page 6, between lines 11 and 12: Add the following new matter:

"(10) AS 29.33.050(h) (school laws)

(11) AS 29.33.295 (acquisition of additional areawide powers)

(12) AS 29.43.020 - 29.43.040 (powers of cities outside

boroughs)

(13) AS 29.43.033 (garbage collection and disposal)"

Renumber following paragraphs accordingly

Page 6, lines 17 and 18: Strike all matter and substitute the following:

"(19) AS 29.53.010, 29.53.310 - 29.53.350, 29.53.400 (borough and city property tax)"

Page 6, between lines 18 and 19: Add the following new matter:

"(20) AS 29.58.180(b) (security for bonds)

(21) AS 29.68.010 (annexation and exclusion)

(22) AS 29.68.030 - 29.68.110 (merger and consolidation)

(23) AS 29.68.500 - 29.68.580 (dissolution)

(24) AS 29.73.020 (eminent domain)

(25) AS 29.73.030 (adverse possession)

(26) AS 29.73.040 (taxation of municipalities)

(27) AS 29.73.050 (municipal name changes)

Page 9, line 24: After "petitions" insert "for election of initial officers"

Page 9, line 25: Strike "for 30 days"

- 1 Page 9, line 26: After "municipality" insert "for 30 days before the date
2 of the election order"
- 3 Page 10, line 20: Before "first" insert "home rule or"
- 4 Page 10, line 25: Before "first" insert "home rule and"
- 5 Page 11, line 3: Before "elected" insert "the initial"
- 6 Page 11, line 5: Before "first" insert "home rule or"
- 7 Page 11, line 6: Strike "first Tuesday of the following October" and
8 substitute "next regular city election"
- 9 Page 11, line 12: Strike "Special service districts and"
- 10 Page 11, line 16: Strike "district and"
- 11 Page 11, line 18: Strike "district or"
- 12 Page 11, line 19: Strike "former district"
- 13 Page 11, line 21: Strike "district or"
- 14 Page 11, line 22: Strike "district or"
- 15 Page 11, line 23: Strike "district or"
- 16 Page 11, line 29: Strike "cities, service areas, and special districts" and
17 add "home rule or general law cities and service areas"
- 18 Page 12, line 9: Strike "or special district"; insert "and" between "city"
19 and "service"
- 20 Page 12, line 11 - 12: Strike "or special district"; insert "and" between
21 "city" and "service"
- 22 Page 12, line 14: Strike "or special district"
- 23 Page 12, lines 24 - 29: Strike all matter and substitute:
24
25 "each borough and city incorporated or, in the case of a second class
26 city, incorporated or reclassified after the effective date of this
27 Act, other than a unified municipality incorporated under the provi-
28 sions of ch. 134 SLA 1967, as amended, or a municipality otherwise
29 incorporated by consolidation, is entitled to an organization grant
equal to \$10 for every voter who voted in the borough or city incorpora-
tion election. However, each incorporated borough, and each first

1 class city incorporated or established by reclassification, is entitled
2 to at least \$25,000.

3 (b) Within 30 days after the date of incorporation of a borough
4 or city following the effective date of this Act the Local Affairs
5 Agency shall determine the number of"

6 Page 13, line 1: Strike "last general" and substitute "incorporation"

7 Page 13, line 8: After "boundaries." add the following new matter:

8 "In the selection of land under the Alaska Statehood Act, it is the
9 policy of the state to make available to cities and boroughs the maxi-
10 mum land area from which to make selections under this section consis-
11 tently with the best interests of the state."

12 Page 14, line 15: Before "first" insert "home rule or"

13 Page 14, line 16: Before "first" insert "home rule or"

14 Page 14, line 27: Before "first" insert "home rule and"

15 Page 14, line 29: Before "first" insert "home rule and"

16 Page 15, line 4: Before "first" insert "home rule and"

17 Page 15, line 7: Before "first" insert "home rule and"

18 Page 15, line 9: Strike all matter after "every" and substitute the
19 following: "two years at the time of the general election"

20 Page 15, line 10: Before "first" insert "home rule and"

21 Page 15, line 10: Omit "staggered"

22 Page 15, line 11: After "terms" insert ", unless provided otherwise by
23 ordinance, and until their successors are elected and have qualified"

24 Page 15, line 16: Omit "must be staggered and none may" and insert "may not"

25 Page 15, line 17: After "years." add the following new matter: "The current
26 term of incumbent assemblymen may not be altered."

27 Page 15, line 21: Before "first" insert "home rule and"

28 Page 15, line 22: Before "first" insert "home rule or"

29 Page 15, line 25: Before "first" insert "home rule and"

- 1 Page 15, line 28: Delete "two months" and substitute "month," and add
2 "unless otherwise provided by ordinance."
- 3 Page 17, line 3: Before "first" insert "home rule or"
- 4 Page 17, line 8: Before "first" insert "home rule and"
- 5 Page 17, line 12: Before "first" insert "home rule and"
- 6 Page 17, line 13: Before "first" insert "home rule and"
- 7 Page 17, line 16: Before "voters" insert "borough"
- 8 Page 17, line 16: Before "first" insert "home rule or"
- 9 Page 17, line 20: Before "first" insert "home rule or"
- 10 Page 18, line 7: Before "the" insert "a majority of the remaining member-
11 ship of the"
- 12 Page 18, line 9: Before "first" insert "home rule or"
- 13 Page 18, line 10: Before "assemblymen" insert "a majority of the remaining"
- 14 Page 18, line 11: Before "first" insert "home rule and"
- 15 Page 18, line 11: After "outside" insert "home rule and"
- 16 Page 18, line 22: Before "voters" insert "borough"; before "first" insert
17 "home rule or"
- 18 Page 19, line 9: Before "first" insert "home rule and"
- 19 Page 19, line 14: Before "first" insert "home rule and,"
- 20 Page 19, line 15: Before "first" insert "home rule and"
- 21 Page 19, line 16: Before "first" insert "home rule and"
- 22 Page 19, line 19: Before "first" insert "home rule and"
- 23 Page 19, line 21: Before "first" insert "home rule and"
- 24 Page 19, line 23: Strike "equal voter" and substitute "approximately equal
25 population"
- 26 Page 20, line 3: After "years" insert "and until a successor is elected
27 and has qualified"
- 28 Page 22, line 6: After "ordinances" insert "except for school budget items"
- 29 Page 22, line 8: Delete "three-fourths" and substitute "two-thirds"

1 Page 22, line 16: After "election" insert "and until a successor is elected
2 and has qualified"

3 Page 22, line 23: After "large." add the following new matter: "The council
4 of a first or second class city may by ordinance provide for election
5 of members other than on an at large basis for all members."

6 Page 22, line 29: Strike "staggered"

7 Page 22, line 29: After "terms" add "and until their successors are elected
8 and have qualified"

9 Page 23, line 18: Before "shall" insert "by vote of a majority of its re-
10 maining members"

11 Page 23, line 19: After "election" insert "and until a successor is elected
12 and has qualified"

13 Page 24, line 2: After "years" insert "and until a successor is elected and
14 has qualified"

15 Page 24, line 18: After "ordinances" insert "except, in a city outside an
16 organized borough, for school budget items"

17 Page 24, line 18: Delete "three-fourths" and substitute "two-thirds"

18 Page 24, line 27: After "election" insert "and until a successor is elected
19 and has qualified"

20 Page 26, line 2: Before "All" add the following new matter: "Members are
21 elected at the regular municipal election held on the Tuesday after
22 the first Monday in November for two-year terms and until their suc-
23 cessors take office. However, the board may by ordinance provide for
24 different terms not to exceed three years."

25 Page 26, lines 10 - 13: Strike all matter and substitute the following:

26 (b) Members of the board are appointed by the municipal executive
27 and confirmed by the assembly or council as are elected at the regular
28 municipal election on the Tuesday following the first Monday in Novem-
29 ber. The term of a utility board member is two years and until a

1 successor is elected and has qualified. However, the assembly or
2 council may by ordinance provide for a different term not to exceed
3 four years.

4 Page 26, line 17: After "term" insert "and until a successor is elected
5 and has qualified"

6 Page 28, line 4: Before the first sentence, insert the following new
7 matter: "Adoption of a manager plan may be initiated either by peti-
8 tion or upon motion of the assembly or council."

9 Page 28, line 12: After "petition" insert "or upon its motion"

10 Page 30, line 8: Before "Home" add "(a)"

11 Page 30, line 12: After "audit" add "or in the case of second class cities
12 an audit or statement of annual income and expenditures"

13 Page 30, between lines 13 - 14: Insert "reports relating to long-term
14 debt as provided in AS 44.19.205.

15 (b) Compliance with the provisions of this section is a pre-
16 requisite to receipt of state shared-revenues under AS 43.18. The
17 state shall withhold annual allocations under that chapter in the event
18 of noncompliance until such time as the report requirements are complied
19 with."

20 Page 31, line 25: After "election" insert "in home rule and general law
21 municipalities"

22 Page 31, line 26: After "November," add "every even-numbered year, or at
23 an interval of years provided by ordinance."

24 Page 32, lines 1 - 3: Strike all matter and substitute the following:
25 he is a United States citizen who has been a resident of Alaska for
26 one year and of the municipality for 30 days immediately preceding the
27 election and who is registered to vote in state elections or meets
28 registration requirements of the municipality if any and is not dis-
29 qualified under art. V of the state constitution. This section

1 applies to home rule and general law municipalities.

2 Page 32, line 12: Strike "voter" and substitute "person qualified to vote
3 in the municipality"

4 Page 32, line 20: After "contestant" insert "if the recount reverses any
5 result of the election"

6 Page 32, line 22: Strike "a voter" and substitute "qualified to vote in
7 the municipality"

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

- 1 Page 34, line 3: Strike "next preceding" and substitute "last"
- 2 Page 36, line 13: After "repealed" add a new sentence: "A municipal
3 charter may be amended as provided in the charter or by initiative
4 and referendum as provided in AS 29.28.060 - 29.28.110."
- 5 Page 41, lines 8 - 10: Strike all matter and substitute the following:
6 (h) State law relating to teacher salaries and tenure, to
7 financial support and to supervision by the Department of Education
8 governs the exercise of the functions by the borough. This subsection
9 applies to home rule and general law boroughs.
- 10 Page 41, line 11: Strike "by the borough." and substitute "(j)"
- 11 Page 41, line 18: After "from" insert "a boundary of"
- 12 Page 42, between lines 2 - 4: After "assembly" strike all matter through
13 "membership" and substitute the following: "except that appointments
14 of members from first class cities are selected from a list of recom-
15 mendations submitted by the city council"
- 16 Page 43, line 8: Strike "execution" and substitute "implementation"
- 17 Page 43, between lines 12 - 13: After "commission" add the following new
18 matter: "The planning commission shall undertake an overall review
19 of the plan at least once every two years and shall present recommenda-
20 tions based on the review to the assembly."
- 21 Page 43, line 18: Insert "zoning" before "regulations"
- 22 Page 44, lines 10 - 29: Strike all matter
- 23 Page 45, lines 1 - 29: Strike all matter
- 24 Page 46, lines 1 - 29: Strike all matter
- 25 Page 47, lines 1 - 29: Strike all matter
- 26 Page 48, lines 1 - 15: Strike all matter
- 27 Page 48, line 17: After "by" insert "resolution or"
- 28 Page 48, line 20: After "boundaries" insert "but may delegate by resolution
29 or ordinance part or all of its functions to the borough"

1 Page 52, line 9: Before "owners" insert "municipality or"

2 Page 55, line 4: After "results." add the following new matter:

3 Upon acquisition of an areawide power the borough succeeds to all
4 of the rights, powers and duties of any city or service area with
5 respect to that power. The borough succeeds to claims, franchises
6 and other contractual obligations, liability for bonded and all other
7 indebtedness and to all of the right, title and interest in the real
8 and personal property held by the city or service area for the exercise
9 of the power. The borough assembly may levy and collect special
10 charges, tax or assessments including interest for the purpose of
11 amortizing bonded indebtedness previously incurred by the city or
12 service area for continuing services in the area. When a city or
13 service area had previously incurred bonded indebtedness, no less
14 than all property that was within the city or service area at the
15 time the bonds were issued shall remain subject to taxation to pay
16 the principal of and interest on the bonds for as long as they remain
17 outstanding. Upon acquisition of additional areawide powers the
18 borough, in consultation with the city or service area personnel,
19 shall arrange for an orderly and equitable transfer of rights, assets,
20 liabilities, powers, duties and other matters related to acquisition of
21 the areawide powers. This section applies to home rule and general law
22 cities.

23 Page 56, line 29: After "chapter." add the following new matter:

24 Powers of this chapter which are incorporated by references to laws
25 governing boroughs apply to home rule cities outside boroughs only
26 in those cases in which they are made applicable to home rule boroughs
27 in the provisions incorporated.

28 Page 57, line 1: Strike "First" and substitute "Home rule and first"

29 Page 57, line 7: Strike "First" and substitute "Home rule and first"

- 1 Page 57, line 11: Strike "First" and substitute "Home rule and first"
- 2 Page 58, between lines 19 - 20: Add the following new matter:
 - 3 (5) provide for garbage and solid waste collection and
 - 4 disposal;
 - 5 (6) provide for water pollution control.
- 6 Page 59, line 11: After "garbage" insert "and solid waste collection and"
- 7 Page 59, line 11: After "facillities" insert "subject to sec. 33 of this"
- 8 chapter"
- 9 Page 59, line 17: After "assumed" insert "in the manner required"
- 10 Page 59, line 18: After " - 29.33.290" insert "for areawide exercise"
- 11 Page 59, line 18: After "or" insert "In the manner required under"
- 12 Page 59, line 18: After " - 29.38.050" insert "for exercise in the borough"
- 13 area outside cities"

1 Page 59, line 19: After "chapter" insert "for exercise in the borough
2 area outside cities"

3 Page 59, between lines 19 and 20, add the following new matter:

4 Sec. 29.48.033. GARBAGE COLLECTION AND DISPOSAL SERVICES. (a)
5 The municipality may by ordinance provide for the establishment,
6 maintenance and operation of a system of garbage collection and dis-
7 posal for the entire municipality or for districts or portions of it;
8 require all persons within the municipality or district to use the
9 system and to dispose of their garbage as provided in the ordinance;
10 award contracts for collection and disposal, or provide for the collec-
11 tion and disposal of garbage by municipal officials and employees;
12 pay for garbage collection and disposal from available funds; require
13 property owners or occupants of premises to use the garbage collection
14 and disposal system provided by the municipality and fix charges against
15 the property owners or occupants of premises for the collection and
16 disposal; provide that charges for collection and disposal shall be
17 paid by the property owner or occupants of the premises; and provide
18 penalties for violations of the ordinances.

19 (b) The council of a first or second class city may not prohibit
20 a person holding a valid permit from the Alaska Transportation Com-
21 mission from continuing to collect and dispose of garbage and provide
22 other related services in an area annexed by the city if the permit
23 authorizes the collection and disposal of garbage and the providing of
24 other services in the area annexed by the city and the permit was
25 originally issued before the area was annexed by the city. If a city
26 provides for a garbage collection and disposal system in an annexed
27 area already serviced by a person allowed to continue under this sub-
28 section, the city may not charge less than the rate set for garbage
29 collection and disposal by the Alaska Transportation Commission for

1 common carriers.

2 (c) If the council determines that it is not in the public inter-
3 est for the city to provide garbage collection and disposal and related
4 services under the restrictions of (b) of this section, it may exer-
5 cise the power of eminent domain to acquire, at the fair market
6 value, from the person providing the services, that portion of the
7 operating authority representing the services within the city. The
8 fair market value shall be based on the economic loss to the permit
9 holder. If an eminent domain proceeding is instituted, the council
10 may exercise the power through the filing of a declaration of taking
11 with the complaint or at any time after the filing of the complaint,
12 but before judgment.

13 (d) This section applies to home rule and general law municipi-
14 palities.

15 Page 60, lines 11 - 12: Strike all matter and substitute the following:

16 "building, housing and related codes, which may be provided by cities
17 within cities or, in the manner required in (b) of this section, by
18 first or second class boroughs in the borough area outside cities or
19 areawide; however, boroughs which on the effective date of this Act
20 are exercising building, housing or related code powers on an areawide
21 basis or in the borough area outside cities shall, subject to acquisi-
22 tion of the powers on an areawide basis by transfer or election as
23 provided in (b) of this section exercise the powers in the borough
24 area outside cities and, upon agreement of the city and borough,
25 within any city in which the powers are being exercised on the effective
26 date of this Act; if a city does not agree to continued borough exer-
27 cise of the powers within the city, the city shall exercise the powers
28 within the city."

29 Page 60, between lines 14 and 15 add the following new matter:

"(16) garbage and solid waste collection and disposal;
(17) water pollution control;"

- 1
2 Page 60, line 15: Delete "(16)" and substitute "(18)"
3 Page 60, line 15: After "assumed" insert "in the manner required"
4 Page 60, line 15: After " - 29.33.290" insert "for areawide exercise"
5 Page 60, line 15: After "or" insert "in the manner required under"
6 Page 60, line 15: After " - 29.35.050" insert "for exercise in the borough
7 area outside cities"
8 Page 60, line 20: After "chapter" insert "for exercise in the borough area
9 outside cities"
10 Page 62, line 22: After "circulation" insert "distributed"
11 Page 62, line 23: After "circulation" insert "distributed"
12 Page 66, line 29: After "In" insert "(a) of"
13 Page 68, line 13: After "municipality" insert "or in the case of a second
14 class city an audit or statement of annual income and expenditures"
15 Page 69, line 9: After "circulation" insert "distributed"
16 Page 69, line 20: After "newspaper" strike "published in" and substitute
17 "of general circulation distributed within"
18 Page 69, line 20: Strike "published in" and substitute "distributed within"
19 Page 72, between lines 21 and 22, add the following new matter:

20 Sec. 29.53.025. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) Munici-
21 palities may exclude or exempt property from taxation by ordinance
22 ratified by the voters at a regular or special election.

23 (b) Municipalities may by ordinance

24 (1) provide for the assessment of boats and vessels for
25 purposes of taxation on the basis of their registered or certificated
26 net tonnage;

27 (2) exclude from taxation the property of an organization
28 not organized for business or profit-making purposes and used exclu-
29 sively for community purposes, provided that income derived from rental

L
A
A

1 of such property does not exceed the actual cost to the owner of the
2 use by the renter.

3 (c) The provisions of (a) of this section notwithstanding,

4 (1) a home rule or first or second class borough may, by ordinance
5 adopted without weighted voting, adjust its property tax structure in
6 whole or in part to the property tax structure of a city within it,
7 including, but not limited to, excluding personal property from
8 taxation, establishing exemptions, and extending the redemption period;

9 (2) a home rule or first class city shall have the same power
10 to grant exemptions or exclude property from borough taxes that it has
11 as to city taxes, provided that the exemptions or exclusions have been
12 adopted as to city taxes and further provided that the city appropriate
13 to the borough sufficient monies to equal revenues lost by the borough
14 because of the exemptions or exclusions, the amount to be determined
15 annually by the assembly without weighted voting.

16 (d) Exemptions or exclusions from property tax which have been
17 granted by home rule municipalities in addition to exemptions autho-
18 rized as required by law, and which are in effect on the effective
19 date of this Act and not later withdrawn, are not affected by this Act.

20 Page 73, before line 1, insert the following new matter:

21 Sec. 29.53.035. FARM OR AGRICULTURAL LANDS. (a) Farm use
22 lands shall be assessed on the basis of full and true value for farm
23 use, and shall not be assessed as if subdivided or used for some other
24 nonfarm purpose. The assessor shall maintain separate assessment
25 records evaluating the farm use land for other than farm use purposes,
26 where applicable. Should the farm use land be sold, leased, or other-
27 wise disposed of, for other than farm use purposes, the owner shall
28 be liable to pay the additional tax for the preceding two years, and
29 the applicable portion of the current tax year, as though the land had

1 not been assessed for farm use purposes.

2 (b) An owner of farm use land must, to secure the assessment, make
3 application to the assessor before February 1 of each year in which the
4 assessment is desired. The application shall be made upon forms pre-
5 pared and supplied by the assessor and shall include information which
6 may reasonably be required to determine the entitlement of the applicant.

7 (c) In this section "farm use" means the use of land for raising
8 and harvesting crops or for the feeding, breeding and management of live-
9 stock or for dairying or another agricultural or horticultural use or
10 any combination thereof and includes the preparation of the products
11 raised on the farm use land and disposal by marketing or otherwise. It
12 includes the construction and use of dwellings and other buildings cus-
13 tomarily provided in conjunction with the farm use. To be farm use land,
14 the owner must be actively engaged in farming the land, and derive at
15 least one-fourth of his yearly gross income from the farm use land. The
16 provisions of this section shall not apply to land which the owner has
17 granted, and has outstanding, a lease or option to buy the surface rights

18 Page 73, line 8: Strike "Home rule and general law"

19 Page 73, line 12: After "valuation" insert "including the combined levy of
20 borough and city taxes within a city"

21 Page 73, line 14: Strike "home rule or general law"

22 Page 73, line 16: After "30" insert ", 35"

23 Page 76, line 29: After "filed" insert "or proved at the hearing"

24 Page 78, line 12: After "statements" strike "July 1" and after "15" insert
25 July 1"

26 Page 78, line 12: After "statements" insert "setting forth the levy, dates
27 when taxes are payable and delinquent, and penalties and interest"

28 Page 78, line 15: Strike "of a home rule or general law"

29 Page 80, line 15: Strike "in" and substitute "distributed within"

L
A
A

- 1 Page 80, line 16: After "circulation" add "distributed within the borough"
- 2 Page 80, line 17: After "places" insert "for at least 30 days"
- 3 Page 83, line 28: After "circulation" insert "distributed"
- 4 Page 83, line 29: After "circulation" insert "distributed"
- 5 Page 84, lines 9 - 10: Strike all matter.
- 6 Page 84, line 15: After "taxes" insert "and costs of foreclosure"
- 7 Page 84, between lines 15 and 16: Add the following new matter: "The
8 deeds shall be recorded in the recording district in which the property
9 is located."
- 10 Page 86, line 16: Before "Cities" insert "Home rule and first class"
- 11 Page 86, lines 17 - 19: Strike "must be levied upon all property within the
12 city listed as taxable on the borough assessment roll and"
- 13 Page 86, line 19: Strike "sec. 50" and substitute "secs. 50 and 310 - 350"
- 14 Page 88, between lines 3 - 4: Add the following new matter:
15 Sec. 29.53.470. MUNICIPAL INCOME TAX. As an alternative to either
16 the property tax or sales and use tax a municipality may levy a tax
17 upon the income of municipal residents and computed as a designated per
18 cent of their Alaska income tax obligations. The municipal income tax
19 's collected by the Department of Revenue and remitted to the municipali-
20 ty less the costs of collection, which may not exceed two per cent of
21 the amount collected. Determinations of the Department of Revenue with
22 respect to sufficiency of the taxpayer's return, amount of tax collected
23 and costs of collection shall be final and not subject to appeal.
- 24 Page 90, lines 26 - 27: Strike "In a newspaper of general circulation in
25 the municipal area"
- 26 Page 90, line 25: Strike "publish" and substitute "have published"
- 27 Page 94, lines 10 - 16: Strike all matter and insert the following:
28 (b) If the bonded debt to be incurred by a borough is an area-
29 wide debt, the vote is areawide; if the full faith and credit of the

1 entire borough is pledged for the payment of the debt of the area
2 outside cities or of a service area, an areawide election is held and
3 the proposition must pass both areawide and in the area which will
4 benefit from the improvement; if the bonded indebtedness to be incurred
5 is limited to areas outside cities only or to service areas, the vote
6 is limited to voters in those areas.

7 Page 94, between lines 15 and 16: Add the following new matter:

8 Sec. 29.58.350. INTENT. Nothing in this title authorizes the
9 council of a second class city to levy ad valorem taxes unless such
10 a levy is necessary to avoid a default upon payment of principal and
11 interest of bonded or other indebtedness which is secured by a pledge
12 to levy ad valorem or other taxes without limit to meet debt payments.
13 In that case, assessment, levy and collection shall be made in the
14 manner of a first class city within or outside a borough, as the case
15 may be.

16 Page 94, line 19: Strike "state, borough, and city" and substitute "the
17 property of a governmental unit."

18 Page 94, line 21: After "capital improvements" add the following new matter:
19 "The state shall pay an assessment levied, except as otherwise pro-
20 vided by law and subject to its right of protest under sec. 15(8) of
21 this chapter. If a governmental unit other than the state benefited
22 by an assessment refuses to pay the assessment, it shall be denied
23 the benefit of the improvement."

24 Page 95, line 4: After "the" insert "assembly or"

25 Page 95, line 29: After "assembly" insert "or council"

26 Page 95, line 9: After "circulation" add "if distributed"

27 Page 9 , line 15: After "installments" insert ", but a sum or installment
28 may not exceed 25 per cent of the assessed value of the property
29 affected"

1 Page 98, line 12: After "the" insert "assembly or"

2 Page 98, between lines 17 and 18, add the following new matter:

3 Sec. 29.63.085. SPECIAL ASSESSMENT BONDS. The assembly or
4 council may by ordinance authorize the issuance and sale of special
5 assessment bonds to pay all or part of the cost of an improvement in
6 a special assessment district. The principal and interest of bonds
7 issued shall be payable solely from the levy of special assessments
8 against the property to be benefited. The assessments shall constitute
9 a sinking fund for the payment of principal and interest on the bonds.
10 The property benefited may be pledged by the assembly or council to
11 secure a payment.

12 (b) Upon default in a payment due on a special assessment bond,
13 a bondholder may enforce payment of principal and interest and costs
14 of collection in a civil action in the same manner and with the same
15 effect as actions for the foreclosure of mortgages on real property.
16 Foreclosure shall be against all property on which assessments are in
17 default. The period for redemption shall be the same as in the case
18 of a mortgage foreclosure on real property.

19 (c) Before the assembly or council may issue special assessment
20 bonds, it shall establish a guarantee fund and appropriate to the fund
21 annually a sum adequate to cover any deficiency in meeting payments of
22 principal and interest of bonds issued by reason of nonpayment of
23 assessments when due. Money received from actions taken against
24 property for nonpayment of assessments shall be credited to the guarantee
25 fund. Interest on the guarantee funds shall be a cost of the improve-
26 ment district.

27 Page 98, line 21: After "ordinance." insert the following new matter:

28 "Special services include services not provided on an areawide basis
29 within the borough or the borough area outside cities or a higher or

1 different level of service than that provided on an areawide basis or
2 in the borough area outside cities. In a first class borough the
3 assembly may exercise within a service area any power granted a first
4 class city by general law; in a second class borough an exercise of the
5 powers must be approved by a majority of the qualified voters residing
6 within the service area and voting on the question."

7 Page 98, line 27: After "if" insert "consistent with the purposes of Art. X
8 of the state constitution"

9 Page 99, line 1: After "may" insert "exercise or"

10 Page 99, line 3: After "each" insert "exercised or"

11 Page 113, lines 15 - 29: Strike all matter

12 Page 114, lines 1 - 2: Strike all matter

13 Page 114, between lines 13 and 14, add the following new matter:

14 Sec. 29.73.050. CHANGE OF MUNICIPAL NAME. (a) The governing
15 body of a home rule or general law municipality may, change the official
16 municipal name by adopting an ordinance for the purpose and filing
17 the ordinance with the office of the lieutenant governor. Upon receipt
18 of a legally adopted ordinance ratified by the qualified voters voting
19 on the question at a regular or special election, the lieutenant govern-
20 or shall issue an appropriate order to the municipality changing its
21 existing name. The name change shall become effective on a date fixed
22 in the order and occurring within 45 days of receipt of the ordinance.
23 A copy of the order shall be transmitted to the Local Affairs Agency.

24 (b) If an ordinance adopted under (a) of this section which
25 results in an order changing the municipal name is subsequently re-
26 pealed, the lieutenant governor shall issue a further order reinstating
27 the former municipal name within 45 days of the date of the order,
28 unless a different municipal name is adopted by ordinance transmitted
29 to the lieutenant governor for implementation as provided in (a) of

1 this section.

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

8 Page 115, line 5: After "circulation" insert "distributed"

9 Page 115, line 6: After "circulation" insert "distributed"

10 Page 115, line 8: Strike "seven" and substitute "five"

11 Page 115, line 9: Delete "annual" and after "election" add the following
12 new matter: "held on the Tuesday following the first Monday in
13 November of even-numbered years, or at an interval of years provided by
14 ordinance"

15 Page 115, line 19: After "who" insert "is registered to vote in state
16 elections or"

17 Page 115, line 20: After "municipality" insert "if any"

18 Page 115, line 27: At the end of the section, add the following new matter:
19 "The terms of elected local officials within home rule and general
20 law cities and organized boroughs who are incumbents in office on
21 the effective date of this Act are not affected by this Act. Their
22 terms expire as provided before the enactment of this title. Their
23 successors are elected on the date provided before the enactment of
24 this title and serve for terms to conform with the provisions of this
25 title."

26 Page 115, line 28: Add the following new matter:

27 * Sec. 4. AS 14.12.050 is amended to read:

28 Sec. 14.12.050. SCHOOL BOARD TERMS. (a) The term of office of
29 a member of a borough or city school board is two [THREE] years, unless

1 different terms not to exceed three years are provided by ordinance,
2 and until a successor takes office. However, if three-year terms are
3 provided, the members of a newly created five-man school board hold
4 office for initial terms as follows: two for a term of three years,
5 two for a term of two years and one for a term of one year, the terms
6 being assigned to the members by lot. If three-year terms are provided,
7 the [THE] members of a newly created seven-man school board hold
8 office for initial terms as follows: Three for a term of three years,
9 two for a term of two years and two for a term of one year, the terms
10 being assigned to the members by lot.

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

19 (c) Nothing in this section prevents a school board member from
20 succeeding himself.
21
22
23
24
25
26
27
28
29

S U M M A R Y

COMPARISONS BETWEEN PROPOSED 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) had 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 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 school and general government. Accordingly, the bill in these areas is substantially the same as existing law. (Two limited changes in school board-governing body relationships are noted on page 5.)

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. The summary takes into account changes proposed for the committee substitute bill; these changes are also separately treated in a memorandum accompanying this summary.

Chapter 3. The Unorganized Borough.
The law regarding the unorganized borough is unchanged.

Chapter 8. Classification of Municipalities (i.e., cities and boroughs)

One of the most significant changes is the change from four classes of cities to two classes of cities. The primary difference in the revision between the first and second class cities is that the first class city has the school function and has the power to assess, levy and collect a general property tax while the fourth class city has neither of these powers. Under present law, first, second and third class cities all have these powers, while

fourth class cities do not. A population minimum of 400 persons has been set as the number necessary to incorporate a first class city under this code, as in present law. Existing first, second and third class cities of over 400 persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given the option of becoming either first class or second class, depending upon their abilities and desires, as assessed by the local boundary commission and subject to legislative review. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess. (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020) The code provides for reclassification of cities and boroughs to a higher class. Upon

reclassification of a third class borough to a second or first class borough the borough may retain a combined assembly-school board or may separate the functions between an assembly and a board, depending upon the wishes of the voters.

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough. (Sections 29.13.010 through 29.13.080) Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections of the code which are specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections themselves contain a specific statement that they are applicable to home rule municipalities. (Section 29.13.100)

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized. (Sections 29.18.050 through 29.18.110) The election of the first slate of officers is separated from the question of incorporation itself on the reasoning that (1) many will not run for an office which they are not sure will exist; (2) it is unfair to ask people to expend funds to run for an office which may not be created; and (3) the merits of incorporation should not be affected by the personalities who might file for office.

Present law provides for transitional assistance upon the incorporation of a new borough. In this 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 incorporated boroughs and cities of all classes. (Section 29.18.180) Boroughs and first class cities which undertake the school function upon incorporation or reclassification, are given a minimum of \$25,000.00.

Under the revised code, both boroughs and cities of all classes may

Under the revised code, both boroughs and cities of all classes may also select 10 percent of the vacant, unappropriated, unreserved state land within their boundaries. (Sections 29.18.110 through 29.18.200) Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all municipal officers is gathered into this chapter.

Municipal 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 staggered terms of four years. (Sections 29.23.040 and 29.23.200(c))

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 does not apply to the school budget since the only power the assembly or council has is to approve or disapprove the total budget. The chairman or mayor may only veto that which the assembly or council has power to enact. (Sections 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. (Section 29.23.270(b))

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then designate a mayor from among their membership. (Section 29.23.250) The mayor of a first class city votes only in case of a tie and has the veto power.

The mayor of a second class city may vote on all matters as a council member, but he has no veto power. (Sections 29.23.260 and 29.23.270) The borough chairman does not vote on matters before the assembly but has the veto power. (Sections 29.23.160 and 29.23.170) The revision makes clear that city council members may be elected from election districts within the city as well as city-wide, the choice being left to the local governments.

The article on school boards has been substantially shortened, eliminating matters found in Title 14. Utility boards are allowed for boroughs and cities. There are no substantive changes between these sections and current 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. (Section 29.48.-250, and Secs. 29.23.310 and 29.23.340)

Either a borough or a city may adopt or repeal a manager form of government, as under current law. However, a standard procedure has been set forth covering 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. (Sections 29.23.410 through 29.23.480)

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, and a financial report. 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 (Section 29.23.560)

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law. (Section 29.28.020) Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years 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. (Section 29.28.030) Also,

the municipality may, at its option, require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose. (Section 29.28.040)

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

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

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

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) Assessment and collection of taxes; (2) Education; and (3) Planning, platting and zoning. However, under current law, 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. (Section 29.33.030)

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the addition of an official map act section. (Section 29.33.095) The official map act, in effect, allows assembly adoption of an official map after hearing.

After adoption and notice to affected property owners the map prohibits construction in areas designated for streets, parks, water courses and so on for the limited period of one year. (Sections 29.33.095 (g) and (h))

The code provides that cities will adopt and enforce building codes for the area inside cities and that boroughs will perform this function in the areas outside cities, unless a city and borough agree to have the borough perform this function. Present borough law has been interpreted by the Attorney General's Office to vest boroughs with areawide building code powers as part of the areawide planning and zoning function.

Under the current provisions regarding acquisition of additional areawide powers, it is unclear whether second class boroughs may acquire additional areawide powers by transfer from the city. The revision explicitly allows this. Also, the Local Affairs Agency is no longer required to pass upon the acquisition of additional areawide powers. In both this and present law, additional areawide powers require a vote of the people in the areas involved, which is considered to be sufficient. (Section 29.33.250 through 29.33.290)

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

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general municipal power outside cities. (Section 29.38.010) A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Section 29.38.020) except with respect to certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste. The 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 boroughs powers are unchanged.

Chapter 43. 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 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. (Section 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. (Section 29.48.320 and 29.48.330)

The procedure for enactment of ordinances has been simplified and streamlined. This does not change any substantive rights. It does, however, change the time between publication and hearing from one week to five days. This allows special meetings for final consideration of an ordinance to be held on the same days as regular meetings. (Section 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 this hearing is to allow the public to propose changes to improve the ordinance. . .

Each municipality is required to codify its permanent ordinances. (Section 29.48.180) Under current 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 general law municipalities. (Section 29.48.190)

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

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

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 can use all of these taxes. Second class cities can levy sales and use taxes, but not property taxes. (Section 29.53.400) Within a borough, the borough collects all of these taxes, provided the borough itself levies a sales and/or use tax. Outside boroughs, the city collects its own taxes. Within a borough, a city collects sales and/or use taxes if the borough does not levy and collect such taxes itself.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and interest on bonded indebtedness. (Section 29.53.050) Property taxes for other purposes may not exceed three percent 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. (Section 29.53.050)

There are several changes concerning the enforcement of tax liens. One change 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 decided to the borough. Under the new code, tax foreclosed property lying within a city is decided to the city while tax foreclosed property lying within the borough but outside the

city is deeded to the borough. This 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. This code provides that 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. (Section 29.53.360 and Section 29.53.385)

Persons having mortgages, liens or other interest in foreclosed properties are allowed to redeem the property or their interest in the property. (Sections 29.53.280 and 29.53.310 (b))

Under current law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under this 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. (Section 29.53.410 and Section 29.53.420)

The code allows as an alternative to municipal tax revenues derived from property and sales and use taxes a municipal income tax up to 10% of the state income tax. This tax would be levied by the municipality, but collected by the state and remitted to the municipality less the cost of collection. (Section

Chapter 58. Municipal Debt

There is now no authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite the lack of clear authority. The code clears up the authority by specifically allowing tax anticipation notes. (Sections 29.58.010 through 29.58.040)

Municipalities are allowed 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. (Section 29.58.160) Second class cities do not have the power to assess and levy property taxes except when municipal bonds financed by another form of revenue are in danger of default (Section 29.58.180)

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. (Section 29.58.205)

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. (Section 29.63.010) The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the

value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for annexation and exclusion by local action. (Section 29.68.010)

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

Unification of municipal government is allowed as under current law. (Sections 29.68.240 through 29.68.440)

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

Chapter 73. Miscellaneous Provisions

The current law regarding municipal tort liability is left unchanged.

SUMMARY

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 CSSE 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

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

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

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

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

Chapter 13. Home Rule Municipalities

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

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

Chapter 18. Incorporation

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

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

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

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' 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, 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (Sec. 29.28.010).

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

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

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

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.23.270). The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

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

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

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

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding three 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 Sec. 29.23.310).

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

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

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

Chapter 28. Elections

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

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.23.040).

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

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

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

Chapter 33. Areawide Borough Powers and Duties

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

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

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

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

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

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

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

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.38.020), except with respect to certain special matters specified in Sec. 29.43.020, 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 43. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution (Secs. 29.43.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of the object or purpose intended to be accomplished (Secs. 29.48.320 and 29.48.330).

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

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

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

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

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

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

Chapter 53. Municipal Assessment and Taxation

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

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

The sales and use tax provisions of the code are made binding only 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).

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

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

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

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

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

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

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

Chapter 53. 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 collection). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040).

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160). 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 (Sec. 29.58.350), essentially the same provision as under present law for fourth class cities.

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

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

Chapter 63. Special Assessment and Service Areas

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

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

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

Chapter 68. Alteration of Boundaries

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

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

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

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

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

Chapter 73. Miscellaneous Provisions

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

THE CODE IN GENERAL

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

MEMORANDUM

COMPARISON BETWEEN SB 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. Such a recodification, of course, has innumerable 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 was a disjointed product of the territorial period. Addition of the Borough Act as a separate title had 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, deliberation and further revision. Revised versions were submitted in 1966, 1967 and 1969. SB 113, 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 relations between school and general government. Accordingly, the bill in these areas is identical with existing law.

It is virtually impossible to detail all of the changes that have taken place between this code and existing municipal law. This summary will explain the major impact of this revision.

Chapter 3. The Unorganized Borough

The law regarding the unorganized borough is unchanged.

Chapter 8. Classification of Municipalities

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 limit of 400 persons has been set as the number necessary to become a first class city under this code as in present law. Existing first, second and third class cities, if over 400 persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given this option of becoming either first class or second class, depending upon their abilities and desires. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess. (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020)

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough. (Sections 29.13.010 through 29.13.080) Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections themselves contain a specific statement that they are applicable to home rule municipalities. (Section 29.13.100)

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized. (Sections 29.18.050 through 29.18.110) The election of the first slate of officers is separated from the question of incorporation itself for three reasons: 1) Many will not run for an office which they are not sure will exist; 2) It is unfair to ask people to expend funds to run for an office which may not be created; and 3) The merits of incorporation should not be distorted by the personalities who might file for office.

Present law provides for transitional assistance upon the creation of a new borough. In this revision, such transitional assistance is also made available to cities. Organizational money grants based upon \$10.00 per voter are allowed to boroughs and cities of all classes. (Section 29.18.180) Boroughs and first class cities, which undertake the school function upon incorporation, are given a minimum of \$25,000.00. The grant provisions are made retroactive in order to assist many small communities which have recently incorporated under present law without the benefit of transitional assistance.

Under the revised code, both boroughs and cities of all classes may also select 10 percent of the vacant, unappropriated, unreserved state land within their boundaries. (Sections 29.18.190 through 29.18.200) Previously only boroughs were given this privilege.

Chapter 23. Municipal Officers and Employees

The law concerning borough assemblies, city councils and all municipal officers is gathered into this chapter.

Municipal election dates and terms of office are changed to conform to the date of state general elections. (Sections 29.23.040 and 29.23.200 (c))

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 does not apply to the school budget since the only power the assembly or council has is to approve or disapprove the total budget. The chairman or mayor may only veto that which the assembly or council has power to enact. (Sections 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. (Section 29.23.270 (b))

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then designate a mayor from among their membership. (Section 29.23.250) The mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may

vote on all matters as a council member, but he has no veto power. (Sections 29.23.260 and 29.23.270) The borough chairman does not vote on matters before the assembly, but has the veto power. (Sections 29.23.160 and 29.23.170)

The article on school boards has been substantially shortened eliminating matters found in Title 14. Utility boards are allowed for boroughs and cities. There are no substantive changes between these sections and current law. (Section 29.23.310 and 29.23.340)

Either a borough or a city may adopt or repeal a manager form of government, as under current law. However, a standard procedure has been set forth covering both types of municipality. (Sections 29.23.410 through 29.23.480)

Chapter 28. Elections

The major change with regard to 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. (Section 29.28.020)

Municipalities may, but are not required to, impose registration requirements over and above those of the state. (Section 29.28.030) Also, the municipality may at its option require majority elections. (Section 29.28.040)

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

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

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: 1) Assessment and collection of taxes; 2) Education; and 3) Planning, platting and zoning. However, under current law, the borough is charged only with assessment and collection of real property taxes. The assessment and collection provision of the new code broadens this to include the collection of use and sales taxes. (Section 29.33.030)

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the addition of an official map act section. (Section 29.33.095) The official map act, in effect, allows assembly adoption of an official map after hearing. After adoption, and notice to affected property owners, the map prohibits construction in areas designated for streets, parks, water courses and so on for the limited period of one year. (Sections 29.33.095 (g) and (h))

Under the current provisions of acquisition of additional area-wide powers, it is unclear whether second class boroughs may acquire additional areawide powers by transfer from the city. This section explicitly allows this. Additionally, this section no longer requires the Local Affairs Agency to pass upon the acquisition of additional areawide powers. In both the old and present law, additional areawide powers require a vote of the people in the areas involved which is considered to be sufficient. (Section 29.33.250 through 29.33.290)

Chapter 35. Borough Powers and Duties in the Area Outside Cities

This chapter is designed to encourage areawide a 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 municipal power outside cities. (Section 29.38.010) A second or third class borough requires an election in order to add additional powers (Section 29.38.020) except in certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage, solid waste and water pollution. The acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency.

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are spelled out in substantial detail. This detail serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution. (Section 29.48.010, 29.48.030, and 29.48.310) The listings are not intended

to be all inclusive, but illustrative of the object or purpose intended to be accomplished. (Section 29.48.320 and 29.48.330)

The procedure for enactment of ordinances has been simplified and streamlined. This does not change any substantive rights. It does, however, change the time between publication and hearing from one week to 5 days. This allows special meetings for final consideration of an ordinance to be held on the same days as regular meetings. (Section 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 this hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances. (Section 29.48.180) Under current 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 general law municipalities. (Section 29.48.190)

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

The code allows municipalities to acquire real and personal property and requires municipalities to provide by ordinance for the disposition of real property. Ordinance requirements which protect the interest of the public are specified. (Section 29.48.260)

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. The thinking is that should a disaster strike, the classification of the city is not particularly relevant. (Section 29.48.270)

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 can use all of these taxes. Second class cities can levy sales and use taxes, but not property taxes. (Section 29.53.400) Within a borough, the borough collects all of these taxes, provided the borough itself levies a sales and/or use tax. Outside boroughs, the city collects its own taxes. Within a borough, a city collects sales and/or use taxes if the borough does not levy and collect such taxes itself.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and interest on bonded indebtedness. (Section 29.53.050) Property taxes for other purposes may not exceed three percent of the assessed property valuation per year.

There are several changes concerning the enforcement of tax liens. One change 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 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. This 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 and the same, of course, holds true for property deeded to the borough. This code also provides that should property be taken

for public use by any governmental unit, upon such taking, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title. (Section 29.53.360 and Section 29.53.385)

Persons having mortgages, liens or other interest in foreclosed properties are allowed to redeem the property or their interest in the property. (Sections 29.53.280 and 29.53.310 (b))

Under current law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under this 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. (Section 29.53.410 and Section 29.53.420)

Chapter 58. Municipal Debt

There is now, no authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice, are issued despite the lack of clear authority. The code clears up the authority by specifically allowing tax anticipation notes. (Sections 29.58.010 through 29.58.040)

Municipalities are allowed 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. (Section 29.58.160) Practically, second class cities will not be able to incur bonded indebtedness because they do not have the power to assess and levy property taxes.

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. (Section 29.58.205)

Chapter 63. Special Assessment and Service Areas

Under existing law, there are two distinct sections on special assessments; each with minor variations and procedures. The major variation was cleaned up last session, but the procedures still vary slightly depending upon whether the special assessment is initiated by petition of the people or by ordinance of the governing body.

While these distinctions are not substantial, it becomes troublesome to determine precisely what procedure should be followed. In both instances, the procedures are extremely cumbersome.

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

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units. (Section 20.63.010) The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for annexation and exclusion by local action. (Section 29.68.010)

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

Unification of municipal government is allowed as under current law. (Sections 29.68.240 through 29.68.440)

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

Chapter 73. Miscellaneous Provisions

The current law regarding municipal tort liability is left unchanged.

Summary

This act is 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 revised municipal 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.

SJR

20



ALASKA
AIRLINES

SEATTLE-TACOMA INTERNATIONAL AIRPORT SEATTLE, WASHINGTON 98158

February 26, 1971

The Honorable Bill Ray
Alaska State Senate
Pouch V, State Capital Building
Juneau, Alaska 99801

Dear Senator Ray:

You recently co-sponsored SJR20 with Senator Josephson which was concerned with Alaska Airlines' business activities in Southeast Alaska.

We always try to be sensitive and responsive to the trust given to us by the public we serve. I know that you feel the same way about your responsibilities as a legislator and would submit, then, that our objectives are the same. In order to achieve those mutual objectives, then, it seems to me we should talk with each other when any question arises concerning them before public condemnation.

I believe that proposing a document such as SJR20, full of incorrect information, and passing that information on to the press is certainly not the way to gain our mutual goals.

We both have responsibility to Alaska's citizenry and must work together to carry out that responsibility. I believe we have earned the right for greater responsibility and hereby ask your help. Facts shown below illustrate to you the inadequacy of the present fixed subsidy. By working together, we can correct this unfortunate situation. In order to continue to serve the citizens of Alaska comfortably, conveniently and well, Alaska Airlines and its 1,000 employees must have restored to it its previous subsidy level.

At the time the mergers took place between Alaska Airlines, Cordova Airlines and Alaska Coastal Airlines, the three carriers were receiving subsidies totaling about \$4 million. Alaska Airlines, now operating the routes of those three carriers, today receives a subsidy of about \$2 million. With those figures in your mind, I would now like to refer to specific sections of

LINES 26-27, Page 1:

Complaints about Alaska Airlines' service in Southeast Alaska are not "legend." The transcript from the Civil Aeronautics Board's Alaska Service Investigation hearings in Ketchikan and Juneau will attest to this. This transcript is a public document and available in Washington, D.C.

LINES 28-29, Page 1:

Alaska Airlines is not and has not diverted subsidy funds to other operations. Exhibits presented in the Alaska Service Investigation Case (Docket 20826) show that the \$1.6 million subsidy for Southeast Alaska is not sufficient to cover the cost of operations. Regularly scheduled annual audits; and reporting procedures established by the CAB provide full accountability of the subsidy dollars. Never is subsidy revenue used for other operations of Alaska Airlines.

LINES 3 thru 6, Page 2:

Average Southeast Alaska passenger fare increases effective October 15, 1970, were 6.9%. The largest increase was 17% between Juneau and Yakutat (not covered in the \$1.6 million subsidy). The smallest increase was 3.8% between Annette and Hydaburg. Average Southeast Alaska freight rate increases were 3.4% for shipments under 100 pounds and 3.1% for shipments of 1,000 pounds. Alaska Airlines' system-wide freight increase was 7.3%.

LINES 7 thru 13, Page 2:

Scheduled air services of Alaska Airlines are not paying for any "side ventures." Regularly scheduled audits and reporting procedures established by the CAB would prevent this if attempted.

LINES 14 thru 17, Page 2:

Alaska Airlines has, in fact, vigorously pursued the rapid completion of airports at Petersburg and Wrangell in order to provide better, faster, more comfortable passenger service to those communities. When these airports were finally completed,

Alaska Airlines did, in fact, pay for the building of terminal buildings in the amount of \$61,576 in one year at those airports to provide reasonable comfort for Alaska's traveling public. Alaska Airlines rental at the Sitka Airport terminal building is \$26,232 annually. Alaska Airlines is the only tenant there.

Alaska Airlines did, in fact, replace old, obsolete, inefficient flight equipment with newer, larger, faster aircraft to provide better service than ever before to Southeast Alaska. Alaska Airlines spent \$400,000 each for two Twin Otter turbo-prop aircraft, exclusively for use in Southeast Alaska. In the busy summer months two additional Otters were leased at a cost of \$10,000 per month, each.

Costs of operation in Southeast Alaska have increased since 1967 as follows:

Flight crew expense:	up 26%
Ramp crew wages:	up 44%
Mechanics wages:	up 33%
Flight operations expenses*	up 22%

*Insurance, fuel, maintenance, crew pay, aircraft rental

In spite of these expenditures and increased cost, the \$1.6 million subsidy established in 1967 has not been increased, and the fare increase amounted to only 6.9%. In the twelve months ending October 31, 1970 Alaska Airlines operating loss in Southeast Alaska bush routes alone was \$1.89 million, over \$200,000 more than the total fixed subsidy of \$1.6 million!

LINES 18 thru 22, Page 2:

As indicated above, the increased cost of the airline industry as a whole (and Alaska Airlines especially) will not permit passenger fare or freight rate decreases at this time.

LINES 23 thru 27, Page 2:

The Civil Aeronautics Board just completed a thorough investigation of all transportation within, to and from the State of Alaska. Some of the parties to this case were: The Alaska Transportation Commission; the cities of Juneau, Ketchikan, Sitka, Skagway, and other Alaska communities; and civic and business bodies.

Evidence produced at the hearings set up as part of this investigation overwhelmingly proved to be favorable to Alaska Airlines. The staff personnel of the Board, working for the

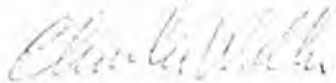
Board's Bureau of Operating Rights, as well as that Bureau's legal counsel have recommended many new routes and the lifting of many restrictions presently on Alaska Airlines route certificates.

Hearings open to the public were held in connection with this investigation in Nome, Fairbanks, Kodiak, Juneau, Ketchikan, Anchorage, and Washington, D.C.

A thorough investigation of Alaska Airlines as well as all scheduled airlines operating to and within Alaska, included operational practices, Southeast Alaska service, efficiency, the use of Federal Subsidy payments. Cost allocation, financing, investments, etc., were examined during the course of this hearing.

Ours is an "open door" policy and I hope you will take advantage of it by contacting me at any time you have questions or criticisms concerning our operation. I would be pleased to be granted a change to appear before you to answer questions at any time.

Sincerely,



Charles F. Willis, Jr.
Chairman of the Board
& Chief Executive Officer

cc: Governor William Egan
Lt. Gov. J. A. Boucher
Alex Miller
Senators
Representatives
Commissioners