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(d) The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. All councilmen present shall vote unless the council, for special reasons, permits a member to abstain. (§ 2 ch 118 SLA 1972)

Sec. 29.23.250. Election and term of mayor. (a) A voter of a home rule or general law city is eligible to hold the office of mayor, except that a home rule city may prescribe additional residency requirements by charter. The council, for all other cities, may by ordinance establish residence requirements for candidates for mayor not exceeding three years.

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

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

(d) The mayor's regular term begins on the first Monday following his election, which is held on the first Tuesday of October, unless a different date of election is provided by ordinance. The council of a second class city shall meet on the first Monday after the regular election date and elect a mayor who takes office immediately. (§ 2 ch 118 SLA 1972)

Editor's note.—Section 20, ch. 118, SLA 1972, provides: "The terms of elected officials who are incumbents on September 10, 1972, are not affected by this Act. Their terms expire as provided before enactment of this Act."

Sec. 29.23.440. Adoption. (a) If the manager plan is approved, the assembly or council shall adopt the plan by ordinance or resolution.

(b) The assembly or council shall notify the Department of Community and Regional Affairs of the adoption of the manager plan. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in subsection (b).

Sec. 29.33.010. Scope of areawide powers. (a) First and second class boroughs shall exercise the powers as specified and in the manner specified in this chapter on an areawide basis, both inside and outside cities within their boundaries.

(b) No city, whether home rule or not, may exercise an areawide power conferred in, or assumed by means of §§ 250 — 290 of, this chapter once that power is being exercised by a borough. (§ 2 ch 118 SLA 1972; am § 6 ch 93 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "First and second class boroughs" for "Boroughs" at the beginning of subsection (a). Cited in *Jefferson v. State*, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

Sec. 29.33.110. Board of adjustment. (a) The assembly is the board of adjustment for areas outside cities. The city council is the board of adjustment for the area within the city boundaries but may delegate by resolution or ordinance part or all of its functions to the borough, subject to § 70(b) (1) of this chapter, in addition to making delegations as provided for an assembly under § 245 of this chapter. Meetings of the borough board are held at the call of the presiding officer and of the city board by the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

(b) The board of adjustment shall hear and decide

(1) appeals regarding alleged errors in enforcement of zoning ordinances and building codes;

(2) appeals from the decisions of the planning commission on requests for conditional uses;

(3) appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.

(c) A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited. (§ 2 ch 118 SLA 1972)

Sec. 29.33.190. Penalties. (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action.

(b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than \$500. (§ 2 ch 118 SLA 1972)

Sec. 29.48.180. Codification. (a) Each ordinance and resolution after adoption shall be codified.

(b) Within three years after incorporation of the municipality, the municipal executive, with the advice and assistance of a legal advisor, shall have prepared a general codification of all municipal ordinances of general applicability having the force and effect of law. The municipal code shall be revised and printed at least every five years, unless the code is kept current by regular supplements.

(c) In (a) of this section, "codified" means

(1) the ordinance has been given a serial number or other permanent identifying number and, bearing a notation of the date of adoption and the designation of the adopting authority, it has been entered by the municipal clerk in a properly indexed book maintained for the purposes of organizing and recording the ordinances; or

(2) the ordinance is a provision included, or to be included, in a code of ordinances or other complete system of positive law promulgated by the council and kept current by the city at reasonable intervals.

(d) This section applies to general law and home rule municipalities. (§ 2 ch 118 SLA 1972)

Revisor's note (1972).—For specific discussion of AS 29.48.180, see 1972 House Journal, p. 1725, or 1972 Senate Journal Supp. No. 3, p. 8.

Minimum codification requirements.—To meet the minimum codification requirements of this section municipal ordinances should be topically arranged under a logical and systematic set of chapters and subchapters.

There should be a table of contents, an index, and a system of cross-referencing. The code, to be useful, must have a current supplement which indicates all additions, amendments, and repeals. Periodically the additions and changes noted in the supplement should be incorporated into the main body of the code. These are minimum requirements. Nothing

Sec. 29.48.200. Penalties. For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$500 or imprisonment for 30 days, or both. However, the punishment authorized under this section may be imposed only if an ordinance is codified and copies of the ordinance are made available for distribution to the public. (§ 2 ch 118 SLA 1972)

Chapter 59. Obligations Issued on Behalf of Municipalities.

Section
10. Authority to issue obligations for specified purposes

Effective date of chapter. — Section 5, effective May 6, 1976, in accordance with ch. 56, SLA 1976, makes this chapter AS 01.10.070(c).

Sec. 29.59.010. Authority to issue obligations for specified purposes. (a) A home rule or general law municipality may establish a public corporation or other municipal instrumentality. This public corporation or other municipal instrumentality may issue obligations to provide the public facilities and services enumerated in AS 29.48.030(a).

(b) The public corporation or other municipal instrumentality created under authority of (a) of this section shall be created and operated solely to provide one or more of the public facilities or services enumerated in AS 29.43.030(a). (§ 4 ch 56 SLA 1976)

Cross reference. — As to loans to municipalities by the bond bank authority through purchase of municipal bonds, see AS 44.58.170.

Chapter 23. Municipal Officers and Employees

Article

1. Borough Assembly (§§ 29.23.010—29.23.100)
2. Borough Executive and Administrator (§§ 29.23.130—29.23.180)
3. City Council (§§ 29.23.200—29.23.220)
4. City Executive and Administrator (§§ 29.23.240—29.23.290)
5. School Boards (§ 29.23.310)
6. Utility Boards (§ 29.23.340)
7. Other Officers and Employees (§§ 29.23.360—29.23.401)
8. Adoption or Repeal of Manager Plan (§§ 29.23.410—29.23.480)
9. Miscellaneous Provisions (§§ 29.23.500—29.23.580)

Article 1. Borough Assembly.

Section

10. General power
20. Composition, apportionment, and reapportionment
30. [Repealed]
40. Regular term of office
50. Qualifications

Section

60. Procedure
70. Departments
80. Assembly vacancies
90. [Repealed]
100. [Repealed]

Sec. 29.23.010. General power. The legislative power of a borough is vested in the assembly. (§ 2 ch 118 SLA 1972)

Establishment of department and procedures for exercise of areawide power. — The establishment of a department and of standards and procedures to be used in the exercise of an areawide power is a task for the borough assembly, in which is vested the general legislative power. 1962 Op. Att'y Gen., No. 9.

The borough assembly may set up a board of health as an advisory board and be substantially guided by such a board of health in its exercise of the public health power, as long as the borough assembly is the body finally expressing the public health power. 1962 Op. Att'y Gen., No. 9.

Borough chairman cannot serve on borough assembly. — To permit the borough chairman to serve on the borough assembly would constitute a clear violation of this section, and would violate the common law prohibition against holding incompatible offices. 1963 Op. Att'y Gen., No. 27.

But positions of borough assemblyman and school board representative can be served concurrently. — A person elected to the positions of borough assemblyman and borough school board could properly exercise the powers, privileges and duties of both offices concurrently. 1963 Op. Att'y Gen., No. 27.

Sec. 29.23.020. Composition, apportionment, and reapportionment. (a) The assembly shall be composed of the number of members and be apportioned in a manner set out in the incorporation petition approved by the voters or, if a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance. Assembly composition and apportionment, including voting procedures based on the apportionment, may be prescribed in any manner consistent with the equal representation standards of the Constitution of the United States.

(b) Within six months of October 14, 1972, and thereafter within six months of the official report of a federal decennial census and issuance of any supplementary data to the report necessary to

establish population distribution within the borough, the assembly shall

(1) determine and declare by resolution whether the existing assembly apportionment meets the standards designated under (a) of this section;

(2) if the existing apportionment does not meet the designated standards, provide by ordinance for reapportionment and, if it chooses, changes in assembly composition, in accordance with the designated standards;

(3) submit the ordinance to borough voters for approval or rejection as provided in (c) of this section.

(c) The vote on an ordinance submitted under (b) (3) of this section shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and the home rule cities of the borough. The other classification shall consist of all votes cast in the remaining areas of the borough. In order for the ordinance to be approved it must receive majority approval in each classification. If, at the end of the time period prescribed in (b) of this section, no ordinance has been approved, the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards designated in (a) of this section.

(d) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide for its reapportionment and, if it chooses, a change in assembly composition, whenever, on the basis of federal census reports or other reliable population data, it determines that the existing apportionment does not meet the standards for apportionment designated in (a) of this section. The assembly is required to determine whether the standards are being met upon petition of 50 borough voters. The petition must include reliable evidence that the existing apportionment of the assembly does not meet the designated standards. Reapportionment under this section shall be implemented by ordinance or by act of the Department of Community and Regional Affairs in the same manner as prescribed for reapportionment in (c) of this section.

(e) Members of the assembly are selected according to assembly composition and apportionment set out in the incorporation petition approved by the voters or subsequently provided in accordance with this section. A change in assembly composition or apportionment under this section shall be effective beginning with the next regular election to the assembly.

(f) Assembly or Department of Community and Regional Affairs determinations or reapportionments made under this section are subject to judicial review. The running of time periods specified

in (b) of this section shall be tolled until a final judgment is rendered in an action brought under this subsection.

(g) This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 12 ch 118 SLA 1972; am § 9 ch 200 SLA 1972)

Cross reference.—See Editor's note to AS 29.18.120.

Effect of amendments. — The first 1972 amendment rewrote this section.

The second 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in the last sentence of subsections (c) and (d), and in the first sentence of subsection (f).

This section provides a convenient method for reapportioning whenever necessary. 1965 Op. Att'y Gen., No. 5.

It does not indicate what population data may be used by the reapportioning agency. 1965 Op. Att'y Gen., No. 5.

However, the agency may use population data other than official census figures in reapportioning seats or votes. 1965 Op. Att'y Gen., No. 5.

The only limit imposed by this section is that a reapportionment plan may not take effect until the next assembly election. 1965 Op. Att'y Gen., No. 5.

Sec. 29.23.030. Election and appointment.

Repealed by § 16 ch 118 SLA 1972.

Cross reference.—See Editor's note to AS 29.18.120.

Editor's note.—The repealed section derived from § 2, ch. 118, SLA 1972.

Sec. 29.23.040. Regular term of office. Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. However, if under a borough apportionment city councilmen are appointed as assemblymen or elected to dual assembly-council seats, they may not be replaced until their assembly term expires as provided by city charter or ordinance, or they cease to be a member of either the assembly or council. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 13 ch 118 SLA 1972)

Cross reference.—See Editor's note to AS 29.18.120.

Effect of amendment. — The 1972 amendment rewrote this section.

Editor's note.—Section 20, ch. 118, SLA 1972, provides: "The terms of

elected officials who are incumbents on September 10, 1972, are not affected by this Act. Their terms expire as provided before enactment of this Act."

Sec. 29.23.050. Qualifications. A resident of the borough is eligible to be an assemblyman if he is a borough voter. An assemblyman who ceases to be a borough voter immediately forfeits his office. An assemblyman elected from or selected to represent a borough area less than the borough area at large and who becomes a resident of another area may continue to serve only until the next regular election. The assembly may by ordinance establish residence requirements for assemblymen not exceeding three years.

Chapter 23. Municipal Officers and Employees.

Article 1. Borough Assembly.

Sec. 29.23.010. General power.

Lack of a valid legislative body would not prevent the valid incorporation of a municipality. This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body.

Jefferson v. State, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. Jefferson v. State, Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

Sec. 29.23.020. Composition, apportionment, and reapportionment.

Section supersedes home-rule enactments. — By AS 29.13.100 the legislature has specifically provided that this section supersedes existing and prohibits future home-rule enactments which provide otherwise. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Section is ambiguous as to when voter ratification of subsequent apportionment plan required. — This section is ambiguous as to whether there must be voter ratification of an apportionment plan when the existing plan has not been determined to be unconstitutional. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Such ratification is required when existing plan not found unconstitutional. — Voter ratification of a subsequent apportionment plan is required when the existing plan has not been determined to be unconstitutional. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Authority to alter apportionment, etc., when apportionment is unconstitutional. — The assembly is required to take action when it determines that the apportionment of its assembly fails to meet the standards of the equal protection clause of the United States Constitution. Under those circumstances, authorization is granted to the assembly to make changes in its composition as well as to make the necessary reapportionment. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

But section is ambiguous as to authority when apportionment not found unconstitutional. — This section is

ambiguous as to whether the assembly may alter either its apportionment or composition when the existing arrangement has not been found by the assembly to be unconstitutional. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

This section may have several referents: (a) that the make-up of the assembly may initially be composed and apportioned in a manner prescribed by the charter or ordinance, (b) that there may be changes made in the composition and apportionment by charter or ordinance at any time or (c) such changes may only be made in the manner spelled out in subsections (b) and (d) of this section which mandate such changes when the assembly apportionment fails to meet equal representation standards. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

The words in subsection (a), "... If a borough is already incorporated, the assembly shall be composed and apportioned in a manner prescribed by charter or ordinance," while not ambiguous in themselves, refer to several different possible applications. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

This particular ambiguity is best resolved in favor of the assembly having the power of reapportionment itself or alter its composition even when there has been no determination of unconstitutionality. Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Section is ambiguous as to when election required for reapportionment. — Taking in conjunction this section's silence

as to whether an election is required for reapportionment with its silence on the power of the assembly to reapportion in the absence of a determination of unconstitutionality, the supreme court found ambiguity exists as to whether an election is required. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

The legislature intended that all reapportionment ordinances be submitted to the electorate. *Roderick v. Sullivan*, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 450 (1974).

Sec. 29.23.060. Procedure.

Cross reference.

As to abstaining from official action when there is a conflict of interests, see AS 29.23.555.

Article 2. Borough Executive and Administrator.

Section

130. Power generally

Sec. 29.23.130. Power generally.

(b) A borough voter is eligible to be borough mayor. The assembly may, by ordinance establish residence requirements for candidates for borough mayor not exceeding three years.

(e) A borough adopting a manager plan may, by agreement with a city, enter into a contract providing for the manager of a city located within the borough to serve also as borough manager. A city adopting a manager plan may, by agreement with a borough, enter into a contract providing for the manager of a borough within which the city is located to serve also as city manager. Appointment and service of the manager shall be as otherwise provided for managers in §§ 130 — 150 and §§ 470 — 470 of this chapter. Nothing in this subsection affects the authority of the assembly or council to provide for other dual officeholding if the dual offices held are compatible or otherwise to appoint officers and employees in accordance with law.

(am § 1 ch 6 SLA 1975; am § 1 ch 63 SLA 1976)

Effect of amendments. — The 1975 amendment, effective February 17, 1975, added subsection (e).

The 1976 amendment added the second sentence of subsection (b).

As the rest of the section was not affected by the amendments, it is not set out.

Article 3. City Council.

Section

200. Composition, eligibility, election and term

PRICE WOHLFORTH
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ALASKA
STATE BAR
277-1111
277-1112

April 13, 1979

James Nordale, Esq.
Borough Attorney
FAIRBANKS NORTH STAR
BOROUGH
P. O. Box 1267
Fairbanks, Alaska 99701

Re: Proposed Issuance of Fairbanks North Star Borough Home
Mortgage Revenue Bonds.

Dear Jim:

Yesterday we discussed the power of the Fairbanks North Star Borough to issue revenue bonds for the purpose of acquiring home mortgage loans under the plan submitted to you by John Huveen & Co. In this respect, we noted the provisions of AS 29.50.200-220 which govern the issuance of revenue bonds by a general law municipality such as the Fairbanks North Star Borough. These provisions apparently authorize bonds for public facilities, the rates or fees to be charged for which would be pledged to the payment of the bonds. The statute does not contemplate the authorization of revenue bonds for the purpose of acquiring home mortgages where the essential security for the bonds would be the home mortgages and the payments of principal and interest made thereon.

Accordingly, we discussed the fact that an amendment to the above quoted sections would probably be necessary in order to provide the requisite assurance that revenue bonds issued by the Borough for home mortgages would be valid.

I enclose on the attached sheets, alternative proposals, one amending the revenue bond section to expand generally revenue bonding powers, and the other one limited to an expansion for home revenue mortgage purposes.

Very truly yours,

Eric E. Wohlforth

Eric E. Wohlforth

EEW:jr

Enclosures - as stated.

Sterling Gallagher

6-2660 x222

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning revenue bonds of municipalities".

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

* Section 1. AS 29.58.200 is amended to read as follows:

Sec. 29.58.200. REVENUE BONDS. (a) A municipality may acquire, construct, improve and equip capital improvements to be operated upon a revenue-producing basis, and bonds for these purposes are payable solely from unpledged revenue of the public facilities for which the bonds are issued.

(b) A municipality may also issue revenue bonds to finance the purchase of residential mortgage loans. The bonds shall be payable from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality except taxes and shall not constitute general obligations of the municipality.

* Sec. 2. AS 29.58.205 reads as follows:

Sec. 29.58.205. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of revenue bonds, unless otherwise provided by ordinance.

* Sec. 3. AS 29.58.210 is amended to read as follows:

Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate or rates of interest, place and manner of payment, redemption terms, registration privileges, manner of execution and signatures

required and all other details of the bonds. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

* Sec. 4. AS 29.58.220 is amended to read as follows:

Sec. 29.58.220. PAYMENT. Bonds issued under §§200-220 of this chapter or the proceedings of the assembly or council authorizing their issuance may contain the covenants which the assembly or council considers advisable concerning

(1) the rates or fees to be charged for services rendered by the public facilities, the revenue of which is pledged to the payment of the bonds, or the terms and conditions of any other amounts collected which are pledged to the payment of the bonds;

(2) the deposit and use of the revenue of the public facilities or of other amounts collected which are pledged to the payment of the bonds;

(3) the issuance of additional bonds payable from the revenue of the public facilities or other amounts collected which are pledged to the payment of the bonds;

(4) the rights of the bondholders in case of default in the payment of the principal or interest on the bonds, including the appointment of a receiver to operate the public facilities;

(5) other covenants as the assembly or council determines.

* Sec. 5. This Act takes effect ~~im~~mediately in accordance with AS 01.10.070(c).

STATE OF ALASKA

JAY S. IMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811

April 26, 1979

The Honorable Bill Parker
Chairman
Community and Regional Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

The Department of Community and Regional Affairs has considered points raised by Ms. Georgianna C. Booth, Deputy Clerk, Ketchikan Gateway Borough, in her April 10 letter to you with regard to Committee Substitute for Senate Bill 137 (Rules), Section 10. We concur with Ms. Booth in both her analysis and recommendations.

There does indeed appear to be an inconsistency between AS 29.33.070 and AS 29.33.110(a), as Ms. Booth alleges. Subsection (a) of AS 29.33.070 clearly assigns to first and second class boroughs planning, platting and zoning authority on an areawide basis, including the responsibility of serving as the board of adjustment, also on an areawide basis. Subsection (b) of AS 29.33.070 allows, but does not require the borough assembly by ordinance to delegate to a city council the borough's responsibility to serve as a board of adjustment within the city.

AS 29.33.110(a) implies that a city council acts as the board of adjustment for the area within the city's boundary whether or not the borough assembly delegates such authority to the city council. However, AS 29.33.070 and concept of areawide planning lead to the conclusion that a city council may serve as the board of adjustment only if such authority is delegated to the city council by the borough assembly. For this reason, we support Ms. Booth's recommendation to amend AS 29.33.110(a) to read:

Sec. 29.33.110. Board of adjustment. (a) The assembly is the board of adjustment but may delegate by ordinance part or all of this function to a city within the borough in accordance with

The Honorable Bill Parker
April 26, 1979
Page 2

§70(b)(1) of this chapter, in addition to making delegations as provided for an assembly under §245 of this chapter. Meetings of the borough...

We encourage the Community and Regional Affairs Committee to consider amending Committee Substitute for Senate Bill 137 as proposed in this letter.

Sincerely,


Lee McAnerney
Commissioner

cc: Ms. Georgianna C. Booth
Deputy Clerk
Ketchikan Gateway Borough



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

April 10, 1979

The Honorable Bill Parker
Chairman, Community & Regional Affairs
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

With regard to CSSB 137 (Rules), Section 10, which amends AS 29.33.110(a), I would like to offer the following comments and suggestions:

AS 29.33.070(a) says that Boroughs shall provide for planning, platting and zoning on an areawide basis. Paragraph (b) of the same section allows a borough to delegate planning, platting, and zoning responsibilities to the council of a city. AS 29.33.110(a) usurps the borough's prerogative to delegate the responsibility of board of adjustment by stating: " * * * The city council is the board of adjustment for the area within the city boundaries * * * "

There are two cities within the Ketchikan Gateway Borough. The City of Ketchikan is a home-rule city and the City of Saxman is a second-class city. The Ketchikan Gateway Borough provides for planning, platting, and zoning on an areawide basis. The Borough also provides for board of adjustment procedures by ordinance. The City of Ketchikan does not provide for board of adjustment procedures by ordinance, and I doubt the City of Saxman is even aware that they have the responsibility for board of adjustment. Conceivably there could be three different determinations and/or interpretations of the zoning code on similar appeals depending upon where property is located. Title 29 does not provide that these cities will prescribe procedures for appeals. AS 29.33.245 says: " * * * The assembly shall prescribe procedures for hearings and appeals. * * * " I question whether Title 29 has any influence on the home-rule city in the area of zoning. It

April 10, 1979

Page two

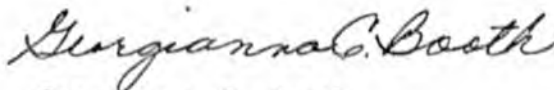
appears more logical that the Borough which has a vested interest in zoning regulation because they are charged with enforcing the decisions of the board of adjustment should retain the board of adjustment function unless they so chose to delegate it. Therefore, I suggest . . .

"(a) The borough assembly is the board of adjustment but may delegate by ordinance part or all of its functions to a city within the borough in accordance with AS 29.33.070(b). * * *"

Your comments and/or questions are welcome.

Sincerely,

KETCHIKAN GATEWAY BOROUGH



Georgianna C. Booth
Deputy Clerk

cc: The Honorable Mike Colletta
Chairman, Senate Rules

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B - JUNEAU 99811

March 1, 1979

*Proposed amendment
put in CSSB*

The Honorable Arliss Sturgulewski
State Senate
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

We would like to respectfully request that the attached language be considered as a suggested amendment to Senate Bill 137.

This suggested wording would "clean-up" another section of Title 29.

This section deals with Senior Citizen Sewer and Water Assessment Deferment and the fact that the State fully pays that special assessment to the municipality involved.

The problem stems from the requirement of involvement by a local unit in a program for which it no longer has any involvement, since the State has already reimbursed the municipality for the loss of revenue created by the Senior Citizen Special Assessment Deferment program.

The section being amended relates only to renewal of the exemption each January. The revision allows the Department to waive the renewal deadline rather than requiring local councils and assemblies to be involved in the routine, annual renewal. Also, the renewal deadline is proposed to be moved from January 15 to March 15 to allow more time following the end of a calendar year for a succession of notices prior to the deadline.

This would clear up some areas of confusion and simplify the administration not only for the Department but also for the Senior Citizens and the municipality involved.

Thank you for your consideration in this matter.

Sincerely,

Lee McAnerney
Commissioner

By: 
Patmer McCarter
Director

Enclosure

PROPOSED LEGISLATION
A BILL

For an Act entitled: "An Act relating to senior citizen special
assessment exemption."

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

* Section 1. AS 29.63.065(b) is amended to read:

(2) A claimant receiving the exemption must file with
the department by [JANUARY] March 15 of each subsequent year a
separate application proving eligibility as of January 1 in order
to retain the exemption. Within the same year the department [THE
ASSEMBLY OR COUNCIL] for good cause shown may waive the claimant's
failure to make timely application and approve the application as
if timely filed.

*Proposed by Hurlbert
P. SB 137 - dropped*

A M E N D M E N T

Offered in the HOUSE

By Hurlbert

TO: CSSB 137 (Rules)

Page 5, between lines 6 and 7:

Insert the following:

"* Sec. 17. AS 29.23.540(c) is amended to read:

(c) No state employee or school district employee may be denied the right to serve as an elected municipal official because of his employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, no school district employee may serve on a school district board in the school district where he is employed except in a school district with an average daily membership, as defined in AS 14.17.250(1), of 300 or less. Provisions of this section do not apply to term of office in effect on August 24, 1976."

Renumber remaining sections accordingly

A M E N D M E N T

Offered in the HOUSE

By Hurlbert

TO: CSSB 137 (Rules)

Page 5, between lines 6 and 7:

Insert the following:

"* Sec. 17. AS 29.23.540(c) is amended to read:

(c) No state employee or school district employee may be denied the right to serve as an elected municipal official because of his employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, no school district employee may serve on a school district board in the school district where he is employed except with the written approval of the commissioner of education. Provisions of this section do not apply to term of office in effect on August 24, 1976."

Renumber remaining sections accordingly

beyond those assured by the foundation program. (§ 1.01 ch 164 SLA 1962)

Sec. 14.17.225. Construction and implementation of chapter. (a) This chapter may not be construed so as to create a debt of the state.

(b) Funds to carry out the provisions of §§ 10 — 190 of this chapter may be appropriated annually by the legislature into the public school foundation account. If amounts in the account are insufficient to meet the allocations authorized under §§ 10 — 190 of this chapter, such funds as are available shall be distributed pro rata among each district based upon the district's basic need.

(c) Repealed by § 1 ch 79 SLA 1971.

(d) The average daily membership allotment supplemental account is established. Funds to carry out the provisions of § 215 of this chapter may be appropriated annually by the legislature to the account. If amounts in the account are insufficient to meet the allocations authorized under § 215 of this chapter, such funds as are available shall be distributed pro rata among eligible districts based upon § 215 of this chapter.

(e) Repealed by § 1 ch 79 SLA 1971. (§ 8 ch 95 SLA 1969; am § 1 ch 79 SLA 1971)

Effect of amendment. — The 1971 report on ch. 79, SLA 1971 (HB 365), see amendment repealed subsections (c) and (e). 1971 House Journal, p. 586.
Legislative committee report. — For

Sec. 14.17.230. Transition.

Repealed by § 2 ch 71 SLA 1972.

Editor's note. — The repealed section report on ch. 71, SLA 1972 (HCSSB 383 am derived from § 5.04, ch. 164, SLA 1962. H), see 1972 House Journal, p. 898.
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Effect of amendment. — The 1971 amendment repealed subsections (c) and (e). **Legislative committee report.** — For report on ch. 79, SLA 1971 (HB 565), see 1971 House Journal, p. 586.

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(3) "district" means any city or borough school district;

(4) "elementary school" means a school through which a combination of the first through the eighth grades are taught;

(5) "fiscal year" means the fiscal year for which a school is organized;

(6) "preparatory school" means a school for which a child is prepared to enter a college or university;

(7) "Repealed" means a section of the Alaska Statutes which has been repealed;

(8) "public school" means a school organized under § 10 of this chapter;

(9) "secondary school" means a school for the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, or twelfth grades, or any combination of these grades, which is not a junior high school;

(10) "separately accounted" means separately accounted for in the financial statements of a school district;

(11) "plant facilities" means the buildings, grounds, and other physical facilities of a school district for the purposes of the school district;

(12) "Repealed" means a section of the Alaska Statutes which has been repealed;

(13) "taxable property" means property subject to taxation for household goods;

(14) "Repealed" means a section of the Alaska Statutes which has been repealed;

(15) "Repealed" means a section of the Alaska Statutes which has been repealed;

(16) "Repealed" means a section of the Alaska Statutes which has been repealed;

(17) "ADM" means the average daily membership of pupils;

(18) "instructional services" means necessary services, textbooks, and other materials, as well as utilities, that complement the instruction, administration, and maintenance of the school district;

(A) "direct services" means services, textbooks, and other materials, as well as utilities, that complement the instruction, administration, and maintenance of the school district;

(B) "indirect services" means services, textbooks, and other materials, as well as utilities, that complement the instruction, administration, and maintenance of the school district;

(C) "instructional capital outlay" means the capital outlay of a school district for the purposes of the school district.

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(4) "elementary" means through the combination of the first and second grades; (5) "fiscal year" means the fiscal year for which a report is prepared; (6) "preparatory" means the first twelve, or an equivalent, grades of a junior high school; (7) "public school" means a school separately administered for the purposes of the public school system; (8) "public school" means a school separately administered for the purposes of the public school system; (9) "second grade" means the second grade of a junior high school; (10) "repealed" means the provisions of a statute which have been repealed; (11) "taxable property" means real property used for household purposes; (12) "repealed" means the provisions of a statute which have been repealed; (13) "repealed" means the provisions of a statute which have been repealed; (14) "repealed" means the provisions of a statute which have been repealed; (15) "repealed" means the provisions of a statute which have been repealed; (16) "repealed" means the provisions of a statute which have been repealed; (17) "ADM" means the average daily membership; (18) "instructional services" means services necessary for the instruction of pupils; (A) "direct services" means services, textbooks, and utilities, as well as utilities; (B) "indirect services" means services that complement the administration, instruction, and maintenance of the school; (C) "instructional outlay" means the total outlay of the school system; SLA 1966; am § 1 ch 238 SLA 1971.
Effect of amendment. — The amendment repealed subsections (15) and (16).

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